

Diversity data collection and transparency

A report on regulators' progress against LSB guidance issued under section 162 of the Legal Services Act 2007

25 March 2015

Contents

Contents.....	2
Introduction	3
Summary of review findings	3
Findings of this review	6
Data collection and publication	6
Response rates	7
Using the data.....	7
Bar Standards Board.....	8
Costs Lawyer Standards Board (CLSB).....	9
Council for Licensed Conveyancers.....	10
CILEx Regulation	10
Intellectual Property Regulation Board.....	11
Master of the Faculties.....	11
Solicitors Regulation Authority	11
Next steps.....	13
Annex A – Background to our diversity guidance.....	15
Annex B – Diversity data collection and publication performance table	18
Annex C - Regulators diversity data collection and publication timetable	20

Introduction

1. Delivery of the regulatory objectives in the Legal Services Act 2007¹, which the LSB and the approved regulators share a responsibility for, requires a diverse workforce which reflects the society that it serves – a workforce that understands and can respond to the varied needs of a wide range of clients.
2. This report sets out the findings of our second review of the approved regulators' progress in implementing our guidance on diversity data collection and transparency. It also sets out a number of areas where improvements need to be made by the regulators and the actions we expect them to now take.
3. Having completed our second review, we wanted to help the regulators identify what more they needed to do in response to our guidance, to make a difference on diversity. To do this we held a roundtable with the regulators on 23 March 2015 where a number of guest speakers talked to the regulators about what more they could be doing in their work in this area².
4. Further contextual information and a summary of the work which led to the publication of our guidance is provided in Annex A. Included with this is our assessment of what is needed to achieve real change in the legal sector and what we believe the implementation of our guidance will help achieve.

Summary of review findings

5. The regulators' actions have led to the development of a robust evidence base on diversity. However, the regulators' analysis and use of the data collected has lacked the statistical sophistication necessary for it to have the level of impact hoped for on the issues identified in our consultation response document³. Regulators need to consider what they can do in this area to more effectively deliver the aims of our guidance and implement these changes. As we have said before, ensuring firms and chambers are accountable for their decisions on recruitment, promotion and retention, and the cultural values impacting on these decisions, will not be achieved by collecting aggregated data alone⁴.

¹ See Part 1 of the Legal Services Act 2007
<http://www.legislation.gov.uk/ukpga/2007/29/contents>

² All of the regulators were represented at this roundtable and attendees included representatives from the Centre for Professional Legal Education and Research at the University of Birmingham, the Centre for Employment Research at the University of Westminster and Stonewall

³ LSB consultation response document - Increasing diversity and social mobility in the legal workforce: transparency and evidence

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

⁴ See page 1 of the LSB consultation response document - Increasing diversity and social mobility in the legal workforce: transparency and evidence

6. In 2013, our first review⁵ of regulators' work in response to our guidance highlighted that data on diversity was being collected in a number of areas where no data existed before⁶ and, critically, that the concept of collecting and publishing data was seen to have value by regulators and was embraced by many in the sector.
7. Having completed our second review it is clear that the regulators' work on diversity in response to our guidance remains at a very early stage, with only a limited number of data collection and publication exercises having been completed. There has therefore been limited opportunity for the data collected to have a direct impact⁷. However, the findings of the previous review have been built upon by the regulators and firms. There continue to be significant improvements in the disclosure of diversity data (particularly among small and medium sized firms⁸) and increasing action by firms in relation to diversity at senior levels⁹. There have also been a number of positive examples of the progress that has been made by regulators in approaching diversity as a regulatory issue.
8. Significant steps have once again been taken in the disclosure of data beyond the traditional reporting areas of gender and ethnicity. For example, there has been a large increase in the information available on the socio-economic background of members of the legal services workforce, which is of great importance in understanding and tackling social mobility challenges in both the legal sector and the wider economy.
9. However, as was the case in our first review, our second review has identified a mixed picture among the regulators with regards to the progress made, particularly in relation to the analysis and presentation of data collected.

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

⁵Diversity data collection and transparency: a report on regulators' progress against LSB guidance issued under section 162 of the Legal Services Act 2007

http://www.legalservicesboard.org.uk/news_publications/LSB_News/PDF/2013/20130930_Diversity_Data_Collection_And_Transparency_Report.pdf

⁶ For example, on social mobility

⁷ Initiatives in this area tend to take time to have an impact but we aim for noticeable improvement in the issues with progression and retention of staff in the legal sector within five to ten years. We also aim for demonstrable reductions before then in the cultural barriers in the legal profession which our research (Diversity in the legal profession in England and Wales: a qualitative study of barriers and individual choices – Sommerlad et al., 2010) has highlighted. There are areas, however, where it might be possible to identify the impact our guidance could be having in the shorter term - it would be interesting, for instance, to understand whether the increased publication of entity level diversity data has increased a sense of personal responsibility in the context of diversity among firms and chambers.

⁸ Steven Vaughan, 'Going Public: Diversity Disclosures by Large UK Law Firms' (2015) Fordham Law Review (forthcoming)

⁹ The Guardian article, Are law firms doing enough to encourage diversity?

<http://www.theguardian.com/law/2014/aug/22/law-firms-importance-of-diversity>

10. We acknowledge there will be a proportionate response from each of the regulators to our guidance, and are realistic at the speed of change that can be expected with the longstanding challenges to the profession. However, having successfully implemented the action plans developed in response to our guidance, all regulators now need to reflect on how the data they are collecting can be used more effectively in tackling the long term issues with progression and retention in the sector.

11. On 23 March 2015, we hosted a roundtable with the regulators at which representatives from the University of Birmingham, University of Westminster, Stonewall and the SRA talked about what more regulators could do to use the data being collected to drive progress on diversity. A further meeting is due to be held with the regulators where they hope to identify and agree the next steps in relation to this.

12. We look forward to the outcome of this further meeting and expect to see all of the regulators:

- *Display greater statistical sophistication in their collection, analysis and presentation of data.*

Regulators should as a minimum ensure progress with retention and progression is able to be tracked, and may want to consider the approaches on diversity data collection and publication that have been taken by other bodies in this area. Examples include both the level of granularity and qualitative data found in the Law Society's reports and the work of the Office for National Statistics on diversity¹⁰.

- *Consider the burden imposed by their data collection exercises.*

Consideration must be given, perhaps principally by non-entity regulators, to the frequency of aggregated data collection required to accurately assess trends, risks and the impact of initiatives. Thought should be given to the burden imposed by data collection, including possible regulatory overlap in multidisciplinary practices and the potential for joined up data collection exercises.

¹⁰ TLS Annual statistical reports

<http://www.lawsociety.org.uk/policy-campaigns/research-trends/annual-statistical-reports/>

TLS Diversity and Inclusion Charter

<https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion/diversity-inclusion-charter/>

ONS Business approach to diversity

<http://www.ons.gov.uk/ons/about-ons/who-ons-are/diversity/index.html>

- *Identify where the sharing of data can provide additional value.*

Regulators should consider how processes for increased sharing of data collected by other organisations and regulators (as has taken place between CILEx Regulation¹¹ and the Solicitors Regulation Authority (SRA)) could be of benefit.

- *Ensure they are able to publish raw anonymised diversity data for others to use.*

For the first time some of the raw diversity data that has been collected by regulators is due to be published¹². We want all of the regulators to publish anonymised raw data in the future, resulting in the development of an increasingly valuable resource for regulators and others to use.

- *Identify how the diversity data being collected can be used to create benchmarks for legal services providers.*

The SRA's law firm diversity toolkit allows law firms to compare their approach to diversity to the approaches of similar firms. The SRA agreed at the roundtable on 23 March 2015 to share its learnings from this work with the other regulators and we expect all regulators to consider how, if possible, they could complete similar work.

Findings of this review

13. Regulators were asked to provide information on their performance in the areas outlined in the table in Annex B.

Data collection and publication

14. With the exception of the Intellectual Property Regulation Board (IPReg), all of the regulators have displayed a reasonably good level of performance in this area. However, to ensure the data collected is of greatest use in delivering the aims of our guidance, there is a clear need for all of the regulators to consider what they can do to enhance its usefulness. Although IPReg has been very successful in the collection of data, it was the last regulator to publish aggregated data on its regulated community¹³. In addition, the data that has now been

¹¹ Formerly ILEX Professional Standards

¹² Raw diversity data collected by the Bar Standards Board and Council for Licensed Conveyancers will be published on the LSB research website

¹³ IPReg diversity statistics

<http://ipreg.org.uk/public/about-us/diversity-and-inclusion-initiatives/>

published does not include all of the strands in the model questionnaire in our guidance¹⁴.

Response rates

15. Generally regulators have delivered a good level of performance in relation to response rates, and considerable effort has been made by a number of regulators to improve these rates. The Bar Standards Board (BSB) and IPReg, for example, have undertaken actions to ensure practitioners using their online regulatory account management systems are directed to the survey. The Council for Licensed Conveyancers (CLC), CILEx Regulation and the SRA have tracked survey responses from firms to ensure nil returns are followed up and maximum response rates achieved.

Using the data

16. There are indications that while some regulators are using the data collected to stimulate real improvements, and looking at how this fits within their wider risk frameworks, others remain weaker in this area. While the wider aims of our guidance regarding transparency of entity data may be of more direct relevance to those regulating entities, all regulators need to consider how they can most effectively use their response to our guidance to improve diversity¹⁵.

17. Data reporting by regulators includes limited analysis, with reporting generally being at an aggregated sector wide level rather than broken down by characteristics, for example seniority or post-qualification experience (as we suggested in our consultation response document was needed¹⁶). This indicates both a need for deeper analysis, as well as possible limitations with the data that is currently being collected. It is essential that regulators do more to ensure that greater statistical analysis of the data collected is possible, as well as undertaking this work themselves. For example, greater cross-tabulation between different characteristics would allow relationships between them to be explored.

General findings

18. This review has revealed that much progress has been made, and has again identified differences in the approaches taken and the focus of the collection

¹⁴ Guidance issued by the LSB to approved regulators on gathering an evidence base about diversity across the legal workforce and promoting transparency at entity level

http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/diversity_guidance_final.pdf

¹⁵ We have previously made it clear that delivery of the regulatory objectives in the Legal Services Act 2007 requires a diverse workforce - not just a diverse profession. This means a workforce that reflects the society that it serves, and that understands and can respond to the varied needs of a wide range of clients.

¹⁶ See page 3 of the LSB consultation response document - Increasing diversity and social mobility in the legal workforce: transparency and evidence

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

exercises (individuals or entities). For example, some regulators relied on entities to provide data on their workforce, some surveys were sent directly to respondents, and some surveys relied on the respondents specifically accessing the survey rather than, for instance, it being part of a renewal process.

19. Findings in our previous review that have been built upon by the regulators are:

- There have continued to be significant improvements in the disclosure of diversity data, particularly among small and medium sized firms¹⁷. There is also increasing evidence of firms targeting improvements in diversity and undertaking more monitoring of their performance in relation to diversity at senior levels¹⁸.
- In addition to the information on gender and ethnicity previously published by some firms and regulators, data is now regularly being published on a number of the other protected characteristics defined in the Equality Act 2010. Importantly there is now significantly more information available on indicators of social mobility among members of the legal services workforce, and there is the possibility of accurately identifying and understanding how diversity in the legal services sector is and is not changing.
- Regulators have continued to gain an increasingly evidence based understanding of the impact of any initiatives, as well as the ability to more accurately identify areas where there is the need for action.
- There are again a number of very positive examples of regulators incorporating diversity into their regulatory approaches to a greater extent than previously.

20. A full summary of regulators' responses to our request for information on their progress is provided below.

Bar Standards Board

21. The BSB has completed two data collection and publication exercises, using a number of sources in order to publish data in all of the diversity strands in the model questionnaire. Rather than an overall response rate to a single survey this has produced different response rates for different diversity characteristics (these range from socio-economic background data on 19% of the practising Bar to gender data on 98% of the practising Bar). In 2013 and 2014 monitoring exercises were completed with samples of chambers to assess levels of

¹⁷ Steven Vaughan, 'Going Public: Diversity Disclosures by Large UK Law Firms' (2015) Fordham Law Review (forthcoming)

¹⁸ The Lawyer article, Norton Rose Fulbright sets 30 per cent female partner target for 2020 <http://www.thelawyer.com/news/regions/uk-news/norton-rose-fulbright-sets-30-per-cent-female-partner-target-for-2020/3028470.article>

compliance with the BSB's equality and diversity requirements¹⁹. Among the sample chambers, compliance with diversity data collection and publication requirements was 59% in 2013 and 72% in 2014.

22. Through its communication with the profession, as well as via seminars and events, the BSB has undertaken a number of actions to encourage disclosure of equality and diversity data and to promote the importance of diversity. To encourage greater provision of diversity data by its regulated community, and to make it easier for them to provide this information, the BSB has improved the routing, in its Barrister Connect service, to the diversity monitoring page on its website. The data collected has been used to inform the development and initiation of regulatory policy, such as the BSB's Equality Strategy 2013 – 2016²⁰, to identify key equality issues relevant to the development of equality objectives for the BSB, and has been fed directly into the BSB's risk identification process. The BSB will need to consider how the development of its entity regulation work will impact its implementation of our guidance and, specifically, what steps it needs to take to ensure the transparency of diversity data at entity level.
23. Qualitative research into the underrepresentation of women at the Bar is due to commence in 2015 with the intention of evaluating the effectiveness of the BSB's equality rules. The BSB has also implemented a number of actions in response to the recommendations of an independent diversity review of the BSB's complaints processes²¹.

Costs Lawyer Standards Board (CLSB)

24. The CLSB has completed data collection and publication exercises in 2012, 2013 and 2014. Regular communication activity has been completed to encourage participation in the survey and it has achieved completion rates of 28%, 30% and 28% respectively. The CLSB has long standing concerns with the voluntary nature of the survey (these are discussed in our consultation response document²²) but it has used the data to improve its understanding of the makeup of the costs lawyer profession and to identify actions needed. Having reviewed

¹⁹ See page 48 of the BSB's 2013 Progress Check Report on the Equality Rules of the Code of Conduct

https://www.barstandardsboard.org.uk/media/1513268/bsb_part_1_agenda_130620.pdf

See page 48 of the BSB's Report on the 2013/14 Supervision Exercise on the Equality Rules of the BSB Handbook

https://www.barstandardsboard.org.uk/media/1599674/bsb_part_1_agenda_140626.pdf

²⁰ BSB Equality Strategy 2013 – 2016

<https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-strategy-2013-2016/>

²¹ Inclusive Employers report - Diversity Review: Bar Standards Board's complaints system

https://www.barstandardsboard.org.uk/media/1538013/inclusive_employers_-_diversity_review_-_bsb_complaints_system.pdf

²² See page 16 of the LSB consultation response document - Increasing diversity and social mobility in the legal workforce: transparency and evidence

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

the three years' worth of data collected, the CLSB has decided to reduce the frequency of collection and its next exercise will now be completed in 2016. As the CLSB is not an entity regulator it has focused on the collection and publication of an aggregated dataset for the whole costs lawyer profession rather than any form of individual firm level publication.

Council for Licensed Conveyancers

25. In its first full collection and publication exercise, the CLC achieved a response rate of 55%. It is currently reviewing the feedback it has received to ensure this response rate can be either maintained or improved in its next full data collection exercise in 2017. The CLC's analysis of the data has identified a number of concerns and it will be asking firms to review their recruitment, selection and progression policies to ensure that, in particular, they promote equality of opportunity for women and those with caring responsibilities. CLC firms will also be signposted to a range of online resources to help them benchmark their procedures against best practice. In 2015, the CLC's annual regulatory return exercise will include a number of diversity focused questions based on areas identified as potential risks through the data collection exercise.

26. The CLC has also set out its commitment to diversity and inclusion in its regulatory and employer policies in this area²³, and through its Trailblazers Apprenticeship Schemes initiative

CILEx Regulation

27. CILEx Regulation surveyed its regulated members who are self-employed and locums. It also asked regulated members who own entities to provide contact details for their employees, and sent surveys directly to these individuals. Using this process, in 2014 CILEx Regulation obtained approximately double the number of responses it obtained in its first collection and publication exercise in the previous year, achieving a 44% response rate from practice owners and their employees. CILEx Regulation provided an online survey to make it easier to respond as well as allowing it to track and follow-up on non-responders. To expand on the data collected, CILEx Regulation has obtained data from the SRA on Chartered Legal Executives working in SRA registered firms.

28. As CILEx Regulation's approach to the delivery of the objectives in our guidance has developed, it has increased its understanding of the diversity makeup of its regulated community and is using this information to identify trends within its regulated community. CILEx Regulation's entity regulation plans include the diversity survey forming part of a firm's annual return, which it expects will result in higher response rates. We expect CILEx Regulation to consider how it will ensure transparency of entities' data, and what steps can be taken now to

²³ CLC Diversity and Inclusion Statement
<http://www.clc-uk.org/CLCSite/media/Corporate-Docs/Diversity-Policy-FINAL.pdf>

achieve this aim in relation to the firms it is currently collecting information on. CILEx Regulation is also working with the SRA to see if it would be possible for the data the SRA captures on chartered legal executives to be broken down differently, in order to enhance CILEx Regulation's understanding of its regulated community.

Intellectual Property Regulation Board

29. IPReg, like the CLSB, has focused on the collection and publication of an aggregated dataset for its regulated community rather than individual entities' diversity profiles. We expect IPReg to consider how to ensure the effective publication of data by the entities it regulates, and to take action if necessary.
30. By requiring registrants to navigate through its diversity survey in order to reach their personal IPReg Pro account (to log CPD hours or pay practising fees), IPReg ensured that all of its regulated community either provided their diversity data or, if they selected 'prefer not to say', made a positive decision not to do this.
31. IPReg was the last regulator to publish data collected in response to our guidance, but has now published data on gender, ethnicity and disability. It is, however, the only regulator not to have published data on all of the strands in the model questionnaire in our guidance and this should be addressed as a matter of urgency.

Master of the Faculties

The Master of the Faculties has completed one data collection and publication exercise in which it achieved a response rate of 49%. It is currently in the process of completing its second exercise and, having written to its regulated community about the importance of collecting diversity information and reviewed the early responses it has received, expects to improve considerably on the response rate achieved in the previous exercise. The Faculty Office will use the expected increased volume of data to identify any trends or areas of concern in relation to diversity in the notary profession. We expect the Faculty Office to fully consider what actions it should take in response to its findings, and its regulatory responsibilities in relation to encouraging an independent, strong, diverse and effective notary profession.

Solicitors Regulation Authority

32. The average response rate among the 9,408 and 9,383 firms that participated in the SRA's diversity surveys in 2012 and 2013 was 42% and 79% respectively. There was a 58% increase in the number of individuals responding the survey in 2013 which resulted in a significant increase in the response rate figure.
33. Having taken a lenient stance with non-responding firms in the first year of its implementation of our guidance, in 2013 the SRA made it clear that this was a regulatory requirement and regulatory action would be taken against firms that

did not comply. This was reinforced with messages on the importance of this work, its purpose, the process and confidentiality. Communications were ongoing throughout the exercise and the SRA worked with the Law Society to support firms' compliance. An enforcement project was also run by the SRA's supervision team who worked with non-responding firms to assist them in completing the survey and reporting the data to the SRA.

34. The lack of a diverse and representative profession remains high on the SRA's agenda with its Equality, Diversity and Inclusion Strategy²⁴ and Action Plan flowing directly from its corporate strategy. The data collected has been used in the SRA's assessment in its Risk Outlook 2014/15²⁵ which, for a second year running, has identified a lack of diversity in the profession as a key risk.
35. In recognition of this risk, the SRA has continued with its supervision visits to larger firms to discuss compliance with Principal 9 and has involved staff from the equality and diversity team in these visits. The importance of this area is made clear at the outset to those wishing to set up a new firm; the application form requiring an explanation of how the new firm will encourage equality of opportunity and respect for diversity and how they will monitor compliance and mitigate against the risks of non-compliance in this area.
36. The SRA has used diversity data in an online benchmarking tool, which allows firms to compare their diversity profile against that of similar firms²⁶. To support this comparison, further background information on the data, context for the work and guidance setting out practical tips for improving diversity is also provided. These documents provide useful examples of how data collected can be used to help firms improve the diversity of their workforce.
37. The SRA has plans in place for ongoing communications with its regulated community on the importance of this work and how it can benefit firms. In response to feedback from the profession, it is reviewing its online data collection tool ahead of its use in the 2014/15 exercise and considering both external and internal data collection options for this exercise. Thought is additionally being given to possible changes to the role categories that have been used to date. We expect the SRA to further consider what could be done to support greater cross tabulation of the substantial data set that is being produced, and the wider availability of this data set to support further analysis.

²⁴ See page 6 of the SRA's Equality, Diversity and Inclusion Strategy: 2014/15 to 2016/17
<http://www.sra.org.uk/sra/equality-diversity/strategy/edi-strategy.page>

²⁵ SRA Risk Outlook 2014/15
<http://www.sra.org.uk/risk/outlook/risk-outlook-2014-2015.page>

²⁶ SRA Law firm diversity toolkit
<http://www.sra.org.uk/solicitors/diversity-toolkit/diversity-toolkit.page>

38. To ensure its expectations on equality and diversity are clear and that it is adequately helping firms to meet them, the SRA is also currently reviewing Chapter 2 of its Code of Conduct²⁷ so the profession has a better understanding of the outcomes expected for compliance with Principle 9 of its Handbook²⁸. It is also carrying out a number of actions in response to the findings in the report published in March 2014 on the Independent Comparative Case Review, which looked at disproportionate outcomes of SRA disciplinary cases involving black and minority ethnic solicitors²⁹.

Next steps

39. In our ongoing monitoring of their work we expect to see regulators:

- Displaying greater statistical sophistication in their collection, analysis and presentation of data to ensure it can have a real impact on the long term issues in the sector.
- Considering the burden imposed by their data collection exercises.
- Identifying where the sharing of data can provide additional value.
- Ensuring they are able to publish raw anonymised diversity data for others to use.
- Identifying how the diversity data being collected can be used to create benchmarks for legal services providers.

40. In the forthcoming meeting with the regulators (see paragraph 11), which will follow up on the roundtable we hosted on 23 March 2015, we expect them to identify and agree further actions which they will complete to make a difference on diversity. In preparation for the meeting, our suggestions for regulators to consider include:

- *Promoting transparency about workforce diversity at entity level.*

Where regulators regulate entities, they should make sure they have actions in place to ensure firms and chambers publish a summary of their

²⁷ See SRA Code of Conduct Chapter 2 - Concerns encouraging equality of opportunity and respect for diversity, and preventing unlawful discrimination, in your relationship with your [clients](http://www.sra.org.uk/solicitors/handbook/code/part2/content.page) and others.
<http://www.sra.org.uk/solicitors/handbook/code/part2/content.page>

²⁸ See SRA Handbook Principle 9 - Regulated firms and individuals are required to "run [your] business or carry out [your] role in the business in a way that encourages equality of opportunity and respect for diversity".
<http://www.sra.org.uk/solicitors/handbook/handbookprinciples/resources.page>

²⁹ See SRA Independent Comparative Case Review
<http://www.sra.org.uk/iccr/>

workforce broken down by level of seniority and each characteristic in our guidance (except sexual orientation and religion/belief).

- *Clearly setting out the rationale for diversity*

Regulators could consider what support they can provide to legal services providers in their actions on diversity, including (where not already done) identifying sources of information and assistance to help outline the economic and business drivers for diversity.

41. As they are closest to their regulated communities, we will also be very keen to hear the regulators' own suggestions at the next meeting on how they can make more of a difference on diversity in the legal sector.

Annex A – Background to our diversity guidance

42. Overall diversity in the legal sector is increasing. However, this remains predominantly at the lower levels of the profession. The expected ‘trickle-up’ effect continues to be slower than hoped for and the proportion of individuals entering the profession from non-traditional backgrounds is not yet being reflected in senior appointments.
43. Delivery of the regulatory objectives in the Legal Services Act 2007³⁰ requires a diverse workforce - not just a diverse profession. This means a workforce that reflects the society that it serves, and that understands and can respond to the varied needs of a wide range of clients. The Legal Services Board (LSB) shares a responsibility for delivering these regulatory objectives with the approved regulators, including the specific regulatory objective to encourage an independent, strong, diverse and effective legal profession.
44. The public sector equality duty in the Equality Act 2010³¹ places further responsibilities on the LSB and the regulators, as it requires all bodies exercising public functions to have regard to:
- Eliminating unlawful discrimination, harassment and victimisation.
 - Advancing equality of opportunity between people who share a protected characteristic and people who do not share it.
 - Fostering good relations between people who share a protected characteristic and people who do not share it.
45. Having engaged with the regulators and interest groups, as well as reviewing and commissioning our own relevant research³², we set out in our consultation response document³³ our conclusions as to how we and the regulators can best meet these obligations and improve diversity within the legal services workforce.

³⁰ Legal Services Act 2007

<http://www.legislation.gov.uk/ukpga/2007/29/contents>

³¹ See Part 11 of the Equality Act 2010

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

³² Barriers to the legal profession - Rosaline Sullivan, July 2010

<https://research.legalservicesboard.org.uk/wp-content/media/2010-Diversity-literature-review.pdf>
Diversity in the legal profession in England and Wales: a qualitative study of barriers and individual choices – Sommerlad et al., 2010

http://www.legalservicesboard.org.uk/what_we_do/Research/publications/pdf/lbs_diversity_in_the_legal_profession_final.pdf

³³ LSB consultation response document - Increasing diversity and social mobility in the legal workforce: transparency and evidence

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

46. We suggested that to achieve real changes in the diversity of the entire legal services workforce, changes need to be made in the way the profession itself makes decisions on:

- work allocation and reward
- how success and commitment are measured and valued
- individual business relationships
- client expectations.

47. We recognised the strong commitment to increase diversity demonstrated by professional bodies and others in the legal profession over a number of years. But we also noted that progress on achieving diversity at the more senior levels of the profession in particular had been disappointing and much of the focus had been on gender and ethnicity rather than other protected characteristics in the 2010 Act or social background. We also recognised the operation of commercial incentives, which are increasingly helping to drive progress. For example:

- corporate or individual consumer demand for a diverse workforce
- management-led change in culture enabling firms to attract the best talent
- equality and diversity obligations in procurement policies (for example government, Bar Council and the Law Society procurement protocols³⁴).

48. In July 2011 we issued guidance³⁵ to regulators on collecting diversity data across the legal workforce, and promoting transparency of this data at entity level. While the first of these aims is an essential starting point, we believe the second is of crucial importance in tackling the cultural challenges that need to be addressed to increase diversity in the legal sector. **Publication at both entity and profession level is considerably more effective in driving early progress than publication at an aggregated level alone.**

49. Transparency of diversity data will not on its own address the diversity issues in the legal sector. It is though, an important and achievable first step that will

³⁴ See Section 19 BIS standard terms and conditions of contract for the purchase of services https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318950/termconditionservices.pdf

See Section 7.8 the BAR Council gender equality scheme

http://www.barcouncil.org.uk/media/112021/gender_equality_scheme___action_plan.pdf

See the procurement protocol in TLS diversity and inclusion charter

<https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion/>

³⁵ Guidance issued by the LSB to approved regulators on gathering an evidence base about diversity across the legal workforce and promoting transparency at entity level

http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/diversity_guidance_final.pdf

create the correct incentives to address them. Transparency also provides evidence which can be used to assess the efficacy of diversity initiatives. There has been a danger in the past that the implementation of various initiatives, without any knowledge of their impact, or if they are targeted where they should be, has been thought to have 'ticked off' diversity.

50. Transparency at entity level should allow consumers to use diversity data when making purchasing decisions in the same way that they would use information on price or quality. Data can also be available at the level at which recruitment, promotion and retention decisions are made, with progress in these areas able to be tracked overtime. We expect regulators data collection to support such tracking and that they will, increasingly be able to use this data to hold entities to account for the impact of their cultural values on recruitment, promotion and retention of staff.

51. As with any regulatory requirements, we recognise that our guidance³⁶ imposes some burden on providers. However, the duties introduced by our guidance are not disproportionate, simply requiring the completion of an annual diversity survey and publication of the results. For some parts of the profession, completion of a survey and publication of the results is required even less frequently.

52. We consider this to be part of good business practice and in many cases this is something that a number of individuals and firms will already be used to doing. Our guidance merely introduces a level of consistency to the data that is collected and, where it was not being collected before, the collection of information on a wider set of diversity characteristics including, importantly, on social mobility.

³⁶ Guidance issued by the LSB to approved regulators on gathering an evidence base about diversity across the legal workforce and promoting transparency at entity level
http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/diversity_guidance_final.pdf

Annex B – Diversity data collection and publication performance table

	Weakest performance	Good performance	Exemplar performance
Data collection and publication	<ul style="list-style-type: none"> ▪ Information is collected but not published in its entirety ▪ Information is not collected for all of the strands in the model questionnaire in our guidance ▪ Regulator relies on representative body to collect and publish information 	<ul style="list-style-type: none"> ▪ Regulator collects and publishes information against all of the strands in the model questionnaire in our guidance ▪ For entity regulators, responsibility for collecting and publishing data is placed on the entity and regulator tackles compliance issues 	<ul style="list-style-type: none"> ▪ Information is made available in a prominent way, for example a directory for regulated entities links through to diversity profiles so that consumers can access the information if they choose ▪ Entity regulators look at relative performance of firms in data collection exercise to see if low response rates are an indicator of wider issues
Response rates	<ul style="list-style-type: none"> ▪ Regulator does nothing to increase response rates 	<ul style="list-style-type: none"> ▪ Regulator takes a pro-active response to tackling low response rates and adapts their approach accordingly, for example entity collection of information 	<ul style="list-style-type: none"> ▪ Regulator sets targets for improving response rates supported by clear actions
Using the data	<ul style="list-style-type: none"> ▪ Regulators fails to analyse the information ▪ Limited analysis of the data is 	<ul style="list-style-type: none"> ▪ Regulator incorporates diversity into supervision discussions 	<ul style="list-style-type: none"> ▪ Regulator risk rates firms on the basis of diversity, focusing supervision on

	completed but not used		those with the poorest diversity record
--	------------------------	--	---

Annex C - Regulators diversity data collection and publication timetable

	<i>Bar Standards Board</i>	<i>Council for Licensed Conveyancers</i>	<i>Costs Lawyer Standards Board</i>	<i>Intellectual Property Regulation Board</i>	<i>CILEx Regulation</i>	<i>Master of the Faculties</i>	<i>Solicitors Regulation Authority</i>
<i>Frequency of collection</i>	Annual	Quad-riennial	Biennial	Triennial	Annual	Triennial	Annual
<i>Date of next publication</i>	Jan 2015	2017	Summer 2016	Spring 2016	Spring 2015	Spring 2015	Autumn 2015