

Meeting: Legal Services Board

Date: 22 January 2020

Item: Paper (20) 07

Title: **Equality and Diversity policy proposals**

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Status: Official

Introduction: Purpose of the paper/ Issue

1. To provide an update on our proposed next steps in monitoring the regulatory bodies actions on diversity and our wider involvement in diversity initiatives.

Recommendation(s)

2. The Board is invited to:
 - a. note and comment on the proposed approach to setting our latest expectations on Diversity and our next steps to monitor regulatory body progress as explained in paragraphs 9 to 14; and
 - b. note our wider involvement with the Judiciary Diversity Forum (Annex A).

Timing

3. This paper sets out our plans for 2020.

Background

4. The LSB and regulators must meet the regulatory objective to encourage an independent, strong, diverse and effective legal profession. The LSB must also meet the statutory obligations under the Equality Act 2010. As a public authority we must comply with the public sector equality duty in the exercise of our functions. The duty requires us to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation.
 - Advance equality of opportunity between people who share protected characteristics.
 - Foster good relations between people who share a protected characteristic and those who do not.
5. For regulators, our current statutory guidance applies - *Guidance for legal services regulators on encouraging a diverse workforce*, issued in February 2017 following a consultation exercise. The guidance is based on four outcomes and requires the regulatory bodies to continue to gather data to ensure a clear

understanding of the diversity profile of their regulated communities. There is also a broader emphasis which focuses on regulatory activities, stakeholder networks and accountability. The guidance also encourages evaluation of the effectiveness of the regulatory arrangements in ensuring a diverse legal profession. The revised guidance is at Annex B.

6. The guidance includes a commitment that we would monitor the progress that regulators had made by August 2018. Thereafter, on-going monitoring would be carried out through an annual performance assessment. It also stated that we would contact regulators six months after publication of the planned report for an update on the work being done by that point to inform the scope of the formal review that was scheduled for August 2018.

Assessment of progress

7. In January 2019 the LSB published the first formal report on the regulators progress against the four diversity outcomes following their progress reports submitted in August 2018. Each regulator was given an assessment and set of actions to review and undertake throughout 2019. Overall, the regulators have made positive progress against the four outcomes, although some still have work to do to ensure they continue to build a thorough understanding of the diversity profile of their regulated community. In the report we said that we would monitor performance through our relationship management meetings which we have done. We consider that it is timely to commission a more formal update from the regulatory bodies and which is consistent with our published policy. We propose to request a progress update for return in February/March 2020 which will inform a new progress report that we will publish in May/June 2020.
8. In view of the above, we consider it timely for further action to ensure that the LSB continues to meet our equality and diversity responsibilities by holding regulatory bodies to account in discharging of our regulatory functions, and helping to create a more diverse and inclusive legal sector.

Next steps

Making expectations clearer

9. We propose that we make it clearer to regulators our expectations of what good regulatory performance looks like on equality matters. We therefore propose to define the following characteristics as being those that would be exhibited by well-performing regulators:
 - that the regulatory body has an understanding of the composition (and therefore diversity) of their regulated community
 - that the regulatory body understands the barriers to entry and progression within their regulated community, has a programme of activity to mitigate those barriers and measures in place to evaluate effectiveness

Annexes

Annex A – Judicial Diversity Forum

Annex B – LSB diversity guidance

Risks and mitigations	
Financial:	N/A
Legal:	Low
Reputational:	
Resource:	No specific additional resource has been allocated for this work but we intend to implement the proposals through our relationship management under the Regulatory performance framework.

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
None		

Wider Diversity actions

Judicial Diversity Forum

1. The LSB is a member of the Judicial Diversity Forum (the Forum) which is run by the Judicial Appointments Commission (JAC) with the aim of identifying ways of improving judicial diversity. A taskforce was established in 2010 to oversee the implementation of 53 recommendations made to the Lord Chancellor to improve judiciary diversity. The taskforce was replaced by the Judicial Diversity Forum in 2015. The Forum was keen for LSB involvement to provide a regulatory steer following a restructure in the Forum in July 2019.
2. Through 2019 we have maintained contact with the Forum. Helen attended the last meeting on 2 December and earlier in 2019 Jemima Coleman attended the February Forum. Matthew has attended two officials group meetings in September and October with the next one scheduled for 23 January 2020. The next Forum meeting is scheduled for 3rd June.
3. The Forum has two main actions in 2020: (a) delivery of combined statistical publication; and (b) an evaluation of the effectiveness of diversity initiatives.
 - a) The Forum considers that the current debate on diversity is not as informed as it could be and that a combined report will help address this. There are gaps in the diversity data for parts of the judiciary but plans are in place to collect this data. The planned Forum report will act as a 'state of play' review and a benchmark for future reporting. Publication is planned for September 2020.
 - b) Collectively and individually the Forum considered that there is a low evidence base on the effectiveness of diversity programmes run by Forum members. There was agreement for a Rapid Evidence Assessment (REA) to be undertaken by professional analysts, with a plan to build a flexible and light touch evaluation framework through logic modelling. The REA would be an internal working document and is not for publication.

Guidance attached separately