

Meeting: Legal Services Board

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Item: Paper (23) 28

Title: EDI Programme

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Status: Official

Introduction: Purpose of the paper

1. The LSB aims to achieve a diverse and inclusive legal profession in which the opportunity to build a successful career in law is available to everyone regardless of background. Our EDI programme seeks to maximise the positive impact that regulatory interventions can achieve to progress towards this.
2. This paper summarises the key activities in our EDI programme, updated in September 2022.

Recommendation

3. The Board is invited to **note and discuss** the progress of our work and the proposed future actions.

Timing

4. While our EDI programme is likely to be ongoing to address the remaining challenges in the profession and to meet our regulatory objectives, our plans focus on key activities in this particular phase of work from September 2022 to November 2024.

Background

5. Our EDI programme is underpinned by the regulatory objective to encourage an independent, strong, diverse and effective legal profession.
6. The challenge facing the legal sector to dismantle barriers to a diverse and inclusive profession is complex and can only be addressed through concerted, collaborative efforts. In March 2021, following extensive stakeholder engagement that built consensus and garnered support for our work, we published 'Reshaping Legal Services', a strategy that identified this key challenge (alongside eight others) for the sector where regulation, very often in collaboration with others, can help deliver the regulatory objectives and, in doing so, reshape legal services better meet society's needs.

7. We are focusing on the following outcomes for the EDI Programme, as explained in Annex A:
 - a) An increase in the LSB's understanding of remaining barriers to equality, diversity and inclusion to aid the delivery of effective regulatory interventions.
 - b) An increase in transparency for the profession on the extent of EDI progress, identifying where regulation can accelerate the pace of change.
 - c) An increase in the use and effectiveness of tools to evaluate EDI action across regulators to aid the LSB's oversight and assessment of performance.
 - d) An increase in the clarity of our expectations for regulators' progress on EDI.
 - e) An increase in the demographic and cultural diversity of legal professionals in England and Wales.
8. In our Business Plan for 2023/24 we identified that the key activities for this programme are to:
 - Review regulators' existing approaches to encouraging diversity and dismantling barriers to a fair and inclusive profession.
 - Consult on a statutory statement of policy on equality, diversity and inclusion which sets clear and up-to-date expectations for regulators.
 - Continue to strengthen our evidence base on the remaining challenges and potential regulatory solutions to achieving a diverse profession.
9. This programme also informs our work to consider the role of regulation in addressing the misuse of NDAs, furthering our objective regarding encouraging a diverse profession as well as to support the constitutional principle of the rule of law and promoting and maintaining adherence to the professional principles.

Analysis

An increase in the LSB's understanding of remaining barriers to equality, diversity and inclusion to aid the delivery of effective regulatory interventions.

10. To inform all of our work in this programme, we have built an excellent knowledge-base from the wealth of available data and evidence published by regulators and other stakeholders. We will apply these insights to our policy development to ensure that regulation acts as a catalyst for change.
11. Our work will build on the new and original research on legal professionals' lived experiences of counter-inclusive practices, discussed earlier by Board, which includes barriers to getting in, being in and getting on in the legal profession. Noting the significance of achieving our vision for the profession and the scale of the challenge, we will continue to take an evidence-led approach to encouraging regulatory interventions. We will move to identify gaps in the evidence, encouraging the regulators to use their own research resources better, as well as commissioning our own robust research, where appropriate.

12. We have engaged extensively with a diverse range of voices from the profession in the last year, meeting with various networks and interest groups who can provide us with further insights on the realities of life in the profession. For example, we have engaged with the Law Societies' various diversity groups, FreeBar, Bridging the Bar, the InterLaw Diversity Forum, Association of Disabled Lawyers, LawCare, Association of Women Solicitors, Legal Women, Aspiring Solicitors Network and the Black Solicitors Network.

An increase in transparency for the profession on the extent of EDI progress, identifying where regulation can accelerate the pace of change.

13. The regulators are required to collect and publish data on the diversity of their respective regulated communities, and critically, ensure this is embedded in all regulatory activity. We monitor this work through our regulatory performance framework. Our diversity dashboard succinctly brings together the latest diversity and inclusion information collected by the regulators and presents a sector-wide comparison to shine a light on progress and areas that lag behind.

14. Our innovative approach to the diversity dashboards became the focus of a case study that we were asked to contribute to the City of London's Socio-Economic Diversity Taskforce's recent [Breaking the Class Barrier report](#)¹. Our work was held up as an example to other regulators – as well as government, sector bodies and employers – on how to use data to effectively drive action.

15. At the November Legal Regulators EDI Forum, we set out our intention to ensure we have a thorough and up-to-date understanding of regulators' current EDI interventions, in particular:

- Regulators' EDI strategies, including how they design, agree and communicate their strategies.
- Regulators' approaches to collecting EDI data and monitoring the diversity profile of relevant authorised persons.
- The activities regulators deliver which aim to increase the diversity of authorised persons and the approaches used to evaluate their impact.

16. This will ensure that we have taken full account of existing regulatory approaches as we scope a new policy statement. We sought this information via a detailed EDI questionnaire that covers the above factors, issued in March 2023, and we will provide analysis of responses in our next update to Board.

An increase in the use and effectiveness of tools to evaluate EDI action across regulators to aid the LSB's oversight and assessment of performance.

17. We continue to use the Theory of Change methodology - a specific and measurable description of the change we want to achieve – to promote progress on EDI. This approach provides a more straightforward means to develop a compelling story of what we aim to do, how we will get there and how successful our actions have been. We have shared this expertise to maximise its benefits across the sector by providing training on the methodology to regulators and the

¹ <https://www.cityoflondon.gov.uk/supporting-businesses/business-support-and-advice/socio-economic-diversity-taskforce/breaking-the-class-barrier-recommendations-report>

Judicial Diversity Forum (JDF) to encourage them to develop their own approaches to evaluation with this in mind. We consider it is particularly important to help regulators and the profession to understand the outcome of what they are committing their valuable resources to on EDI.

18. Assessing the impact of efforts to improve the diversity of the judiciary is crucial to achieving progress. We have played an instrumental role in convening a work group of JDF officials to advance initiatives on evaluation. In November 2022 we published a research report for the JDF on strengthening the evaluation of JDF partners' diversity initiatives which informed the JDF's priorities and actions for 2022/23. The Bridge Group outlined that an effective approach to the design and evaluation of initiatives is one with clear aims and targeted and collaborative action. We took the lead on applying these recommendations to the latest action plan to ensure greater transparency and accountability on our collective progress. The outcome is a focused and clear action plan which sets out what interventions are being made by which members of the JDF. This plan should facilitate identification of the interventions which have greatest impact in improving judicial diversity.

19. As discussed above, we are conducting analysis in regulators' current approaches to evaluation to inform our policy development.

An increase in the clarity of our expectations for regulators' progress on EDI.

20. We have played a significant convening role to bring together the eight legal services regulators and two disciplinary tribunals who have reaffirmed their commitment to ensure more inclusive workplaces for lawyers by tackling misconduct.

21. We have agreed new principles on [tackling counter-inclusive misconduct through disciplinary processes](https://legalservicesboard.org.uk/wp-content/uploads/2022/06/Tackling-counter-inclusive-misconduct-statement-FINAL.pdf)² (June 2022) to drive greater accountability on progress, acknowledging that while there have been some improvements in diversity and inclusion, much more work is needed. We will monitor the effectiveness of these principles in driving improvements to disciplinary processes.

22. Later this year, we will focus on the role of regulation in driving change by consulting on an EDI statement of policy to replace our current guidance and provide regulators with clear and updated expectations for regulators on how they should encourage a diverse legal profession. We aim to publish the final statement in Spring 2024.

An increase in the demographic and cultural diversity of legal professionals in England and Wales.

23. In 2022/23 we engaged the sector in our inaugural Reshaping Legal Services conference to reinvigorate conversations around the theme 'a diverse public deserves a strong, ethical and diverse profession'. We heard from some of the many stakeholders working to improve the diversity of the profession. Speakers

² <https://legalservicesboard.org.uk/wp-content/uploads/2022/06/Tackling-counter-inclusive-misconduct-statement-FINAL.pdf>

showcased what really works, such as organisations reviewing recruitment and work allocation practices, promoting work experience programmes for under-represented groups and analysing the reasons behind pay disparities.

24. The LSB has been an active contributor to the legal regulators' EDI forum which brings together the collaborative efforts of the regulators to agree tangible actions. We have brought productive agenda items to encourage greater collaboration on strategic priorities – such as addressing barriers to entry and progression in the legal sector and developing effective and consistent approaches to evaluating EDI interventions.

25. The LSB has also been an effective member of the JDF which brings together organisations from across the legal sector to identify ways to support increased judicial diversity. The JDF provides strategic direction in the areas of challenging structural barriers to appointment, analysing and addressing the reasons behind how people's careers progress, and the gathering and use of data and evidence.

Next steps

26. We will carefully consider the findings of our research and responses to our EDI questionnaire and return to Board later in the year. We will bring robust analysis of regulators' current approaches to encouraging a diverse profession and our thinking on policy options to enhance the pace of progress.

Risks and mitigations	
Financial:	N/A
Legal:	The programme aims to use the LSB's regulatory tools and influence to accelerate progress which involves the risks of legal challenge to any interventions proposed.
Communications and engagement:	This phase of the programme involves engagement with the sector through a consultation on an EDI statement of policy and we will aim to hear from a diverse range of stakeholders to inform our expectations for regulators. We continue to engage the sector on the theme of EDI following our inaugural conference with further events, including a launch of our research on the lived experiences of counter-inclusive practices.
Equality and diversity:	This programme is key to meeting our regulatory objective to encourage a diverse profession and to meet the challenge identified in our sector-wide Reshaping Legal Services strategy to dismantle barriers to a diverse and inclusion profession at all levels.
Resource:	N/A
Environmental:	N/A

Annexes

Annex A – Update on EDI Programme

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
NA	NA	NA