



THE LAW SOCIETY  
of SCOTLAND

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## Ensuring fairness, creating opportunity:

A practical guide to equality and  
diversity for Scottish solicitors

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The solicitors' profession in Scotland plays a vital role in the lives of individuals, businesses and government, and lawyers work to safeguard the fair legal framework and access to justice that underpin private lives and trade and commerce.

To maintain that position, it is vital that the profession is recognised for its high standards, is regulated in the public interest, and is open and accessible. A diverse and vibrant community of lawyers will better represent the public's views, draw on wider strengths to develop innovative business models and legal solutions, and offer better services to the people and organisations of Scotland.

A key part of maintaining the profession's position in Scotland is ensuring equality for those considering a career in law, or working within the profession and in the provision of services. This is not about political correctness, box ticking, or legal compliance. The Law Society of Scotland sees the promotion of diversity as absolutely central to the development of a 21st century profession.

At the heart of our profession is a shared set of standards to which every solicitor subscribes. All the stated standards are based on principles of trust, respect and integrity, which are central to delivering equality. A specific statement on diversity is included. In past research, 80% of members believed the Society should go further and issue more detailed advice and information on these issues.

This guidance, now in its second edition, is designed to support solicitors in understanding why diversity is important, and a central element of building a sustainable and profitable business, whatever area of law you work in. We would encourage all solicitors to read this guidance and discuss it as a firm or in-house legal team, considering what actions you may need to take to ensure your firm meets the requirements of equality and gain the benefits of diversity.



Bruce Beveridge  
President

This guide was commissioned by the Law Society of Scotland in order to provide a practical dimension to the high value that we place on equality and diversity, and to demonstrate our proactive determination to lead and support the profession in this area. After a successful first edition, the guidance has been fully revised and updated.

The guide is designed to support all solicitors, working in firms of all sizes, engaged in all kinds of practice, to be top class performers in this area. It fits well with the Society's adoption of best practice in equality and diversity work, taking our inspiration mostly from the public sector, where activities such as the development of equality objectives, consultation, monitoring and equality analyses (or equality impact assessments) are now normal practice.

The guide is in three parts:

- Part 1: Issues, patterns and experiences
- Part 2: Employment and training for solicitors and other staff working in law firms
- Part 3: Delivering an equal and accessible service to clients all over Scotland

Whilst we have tried to keep jargon to a minimum, we have included a short glossary: in the online version, you can see the definition of those words highlighted in green by hovering over them. In the paper version, these words are defined in the glossary at the end. We also include a list of references and useful resources.

It is not meant to be a complete statement of the law and your legal responsibilities, which firms must comply with, but is meant to be a simple and accessible guide to assist firms in starting to improve their practice.

The guide was commissioned by the Society and produced for us by EW Group (formerly Equality Works), who spoke to many practising solicitors and other staff in firms up and down the country, to collect and share examples of good practice. We are very grateful for all these contributions.

We welcome any comments on the guide, and would be delighted to hear from readers with comments about useful additions and possible amendments.

# Part 1

## Issues, patterns and experiences

In this section of the guidance, we focus on the protected characteristics<sup>1</sup> of race and ethnicity, gender, disability, sexual orientation, religion and belief, and age (including older and younger people), along with social class or deprivation. For each of these, we will:

- Present facts and figures about the context in Scotland
- Identify some of the patterns and experiences of these groups within the legal profession, drawing in particular on the Society's own research (which can be found at [www.lawscot.org.uk/about-us/equality--diversity](http://www.lawscot.org.uk/about-us/equality--diversity))
- Highlight some of specific legal needs these groups may have
- Identify some of the potential issues they may encounter in accessing legal services
- Present some information about different outcomes these groups receive from the legal system

In order to get appropriate services from solicitors, people need to be able to access an appropriate solicitor; they need to be treated with dignity and enjoy effective two-way communication; and they need accurate and affordable advice and representation, which helps them to receive a fair outcome from the legal system.

When considering potential barriers to receiving good service provision, we will, where possible, present these under the headings of access, treatment and communication, and outcome.

## Some facts and figures about race and ethnicity in Scotland

In the 2001 census, 2% or 100,000, of Scotland's population was from a minority ethnic background. The most current estimate based on Scotland's Annual Population Survey 2011 is 3.7%, or 192,900.<sup>2</sup> The largest minority ethnic groups were Asian or Asian Scottish/British at 2.1% of the population of Scotland, followed by mixed/multiple ethnic groups (0.5%), other ethnic groups (0.5%), African (0.4%), Arab (0.1%), and those of Caribbean or black ethnicity (0.1%).

The larger cities have greater ethnic diversity: 5.5% of Glasgow city's population and 4.1% of Edinburgh's were from minority ethnic backgrounds in 2001. Half of Scottish council areas had minority populations of less than 1%.<sup>3</sup>

It is likely that the minority ethnic population in Scotland has grown significantly since 2001. In the year to 30 June 2007, there were net population gains of around 8,800 from the rest of the UK and 16,800 from the rest of the world.<sup>4</sup>

Minority ethnic groups have a younger age distribution than white ethnic groups and are over-represented in higher education. In 2011, 18.5% of all students studying in Scotland were classed as international (Europe and overseas).<sup>5</sup> This is an increase from the 2006/7 figure of 6.6% of all students studying in Scotland.<sup>6</sup> All minority ethnic groups in Scotland are at least as likely or more likely to have degrees (or equivalent qualifications) as white Scottish people yet minority ethnic groups have higher unemployment rates than all of the white ethnic groups.<sup>7</sup>

Over 5,300 racist incidents were recorded in Scotland in 2011/12, 10% more than in 2010/11, and a similar number to that recorded in 2007/8. There was also an increase in the number of racially motivated crimes and offences, with over 6,600 recorded being 8% more than in 2010/11.<sup>8</sup>

Estimates of the numbers of Scottish Gypsies/Travellers in Scotland vary from around 2,500 to 15,000.<sup>9</sup> Higher estimates generally recognise that many Gypsies/Travellers live for part or all of the year in houses but retain a strong commitment to the maintenance of their identity, culture and lifestyle.

In an employment tribunal in October 2008, Judge Hosie arrived at the view "that Scottish Gypsy-Travellers have 'ethnic origins', with reference in particular to Section 3(1) of the 1976 [Race Relations] Act and that they therefore enjoy the protection of the Act".

### **Race and ethnicity in the legal profession – issues and experiences**

An estimated 1.7% of Scottish lawyers are from minority ethnic backgrounds.<sup>10</sup> Approximately 7.5% of Scottish law students starting their degrees in 2011 were from minority ethnic backgrounds.<sup>11</sup>

Minority ethnic lawyers are significantly less likely to be equity partners than their white colleagues; though this may be at least partly explained by the fact that minority ethnic lawyers, as a group, are younger and have shorter periods of post-qualifying experience.<sup>12</sup> The Law Society of Scotland commissioned a recent study specifically on the experiences of Scottish solicitors from minority ethnic backgrounds.<sup>13</sup>

The desire to tackle discrimination may be a motivating factor for some minority ethnic people to join the profession:

**“My mother and what she experienced, the discrimination, I wanted to make a change from within, so I chose law.”**

However, there is a danger that minority ethnic lawyers become pigeon-holed in less lucrative areas of law:

**“At university, lecturers encouraged black students to do human rights or European law and not, say, property law or commercial law; they suggested that they would do better in those fields.”**

Quotes from Johnson et al/EOC Scotland (2006)<sup>14</sup>

Concerns about, or problems with, fitting into the culture of legal firms and workplaces can act as a barrier to minority ethnic people entering or progressing within the legal profession.<sup>15</sup>

**“We have some very able young Asian lawyers, particularly young women, coming in to the profession now and it will be a worthwhile challenge to integrate them into the profession. Issues around alcohol, religious absence and sexual segregation will need sensitive handling and a balance will need to be struck between diverging values.”**

Male lawyer, aged 41-45, quoted in The Grange Group/LSS (2006)

## Needs and issues for minority ethnic people accessing legal services

Research has found that, although minority ethnic people are more likely to have a ‘justiciable’ problem than white people, their take-up of legal services tends to be lower.<sup>16</sup> They are more likely to turn to family, friends, the internet, community groups or non-legal professionals than solicitors.<sup>17 18</sup>

Minority ethnic people may need legal advice on any area, though specialist issues include:

- Racial discrimination in employment and service provision
- Harassment and racially motivated attack
- Immigration and asylum

# Race and ethnicity

In addition to their widespread experiences of harassment and discrimination, Gypsies/Travellers tend to have particular legal issues in the following areas:

- Access to suitable sites, fair access to planning law, and the use of powers of eviction
- Access to education, primary health care and other services

Issues relating to access, treatment and outcome may include:

## Access

- Not knowing where or how to find a suitable solicitor
- The presumed cost of legal representation and a lower awareness of legal aid, especially for civil problems<sup>19</sup>
- A lack of knowledge and/or confidence regarding legal rights and fear of discrimination within the legal system<sup>20</sup>

**“The educated people know all about the benefits, social workers, where to go, advice centres where they can go for help. For the majority of uneducated people like us, it is very difficult for us to know where to go for help, who to go to for the right advice.”**

Pakistani female, aged 41-65, quoted in Genn (2006) p.73

- Gypsies/Travellers report particular problems finding solicitors to represent them on a range of legal matters, including family, civil, welfare benefits and criminal law. Solicitors refusing services have said that they do not have expertise in Gypsies'/Travellers' issues, that they could not take on cases due to a conflict of interest, or that they simply do not work with Gypsies/Travellers

**“They [solicitors] said, ‘We don’t have expertise in Travellers.’ I replied, ‘You don’t need expertise in Travellers; I am a human being and I am protected under the law the same as anyone else – all you need expertise in is the law.’”**

Roseanna T McPhee<sup>21</sup>

## *Treatment and communication*

- Language and problems accessing interpreters and information leaflets
- Cultural and legal differences between the UK and originating countries<sup>22</sup>
- Perceptions that going to a solicitor’s office will be a formal and intimidating experience<sup>23</sup>
- A lack of feedback on the progress and outcome of cases for victims of racist crime<sup>24</sup>

## *Outcome*

- Where research studies have sought feedback from minority ethnic people who have accessed solicitors, most have been very positive about the service they have received<sup>25</sup>
- A shortage of solicitors specialising in immigration and discrimination
- The loss of anonymity for victims and witnesses of racist crime during trials<sup>26</sup>
- From 1999 to 2000, 450 cases involving racist offences were disposed of in Scottish courts. Of 480 people accused, 73% were convicted of one or more racist charges; 44% of all such convictions resulted in a fine. Of acquittals, 40% were due to not guilty pleas being accepted. Examination of court and prosecution papers in 69 such cases showed pleas were accepted when key witnesses were absent, charges were incorrect, or there was insufficient evidence to prove the charge. In 45 of the 69 cases, the accused had previous convictions<sup>27</sup>

## Some facts and figures about gender in Scotland

In Scotland, women make up:

- 51.5% of the population<sup>28</sup>
- 63% of law undergraduates<sup>29</sup>
- 35% of solicitors in private practice
- 20% of partners<sup>30</sup>
- 11.8% of senior judges<sup>31</sup>

In Scotland, 40% of women employees and 9% of men employees work part-time.<sup>32</sup>

Over half of pregnant women in Scotland (54%) have experienced some form of pregnancy discrimination at work. This is more than women in England (50%) and Wales (38%). Women in workplaces with fewer than ten people are more likely to have lost their jobs because of pregnancy and maternity discrimination (11%) than women in larger workplaces (7%).<sup>33</sup>

By 2009, a total of 154 people had entered themselves on the Gender Recognition Register in Scotland since the Gender Recognition Act 2004 came into force. There are, on average, a further 40 new entries each year.<sup>34</sup>

A total of 62% of trans people surveyed in Scotland had experienced discriminatory abuse from strangers in public places and 53% of trans people known to be transgender by their work colleagues have experienced discrimination or harassment at work, linked to their gender identity.<sup>35</sup> As a consequence of harassment and bullying, a quarter of trans people will feel obliged to change their jobs.<sup>36</sup>

## Gender in the legal profession – issues and experiences

### *Gender pay gap*

After the first five years in practice, a significant gap emerges between male and female solicitors' salaries. Between six and ten years after admission, men in private practice are earning £14,000 more on average than their female peers. The gap increases steadily and, between 21 and 25 years after admission, men are earning £42,000 more than women. Even when those working part-time are excluded, there is still a significant gender pay gap in private practice.

### *Work/life balance and caring responsibilities*

Around half of Scottish solicitors surveyed in 2005 felt that their organisation equated long hours with commitment. Most social networking takes place outside of working hours.<sup>37</sup>

**“Everybody, regardless of gender, should be entitled to promotion without the need to work very long hours, which interfere with family. I think society is changing and dads want to spend time with the children too.”**

Female, 25-30, assistant in private practice, LSS/Grange Group (2006)

At equity partner level, three-quarters of men and half of women have dependants.<sup>38</sup> Part-time lawyers and those who have had one or more career breaks are much more likely to report that they have been discriminated against.<sup>39</sup>

**“If you go part-time you can wave goodbye to any progression.”**

**“Women lawyers can break through the glass ceiling but they may need to make some difficult personal choices in order to do so.”**

Women lawyers consulted for this guidance

## *Gender segregation*

There is significant gender segregation in different areas of law: women form a clear majority working in residential conveyancing, civil litigation, family/matrimonial and employment law – those areas regarded as being the least well-paid.<sup>40</sup>

## *Trans lawyers*

In the 2005 survey of the Scottish legal profession, seven lawyers identified themselves as trans.<sup>41</sup> Although we do not know much about the specific issues facing this group, recent research on trans people in Scotland gives us some insight into the employment experiences of this group:

- 8% said they had been sacked at least once due to their transgender background or identity
- 13% had quit their job at least once due to fear of possible future discrimination or harassment
- 15% said their employer had failed to protect their privacy relating to their transgender background or identity and as a result was responsible for causing them to suffer transphobic workplace discrimination and harassment<sup>42</sup>

## Issues for women, men and trans people accessing legal services

Men, women and trans people may need legal advice on any area, though legal issues that may be more likely to arise for people of different genders include:

- **Domestic violence:** Scottish Women's Aid estimates that one in five women in Scotland experiences domestic abuse at some stage in her life.<sup>43</sup> 87% of those incidents recorded by the police involve a male perpetrator and a female victim<sup>44</sup>
- **Rape and sexual assault/harassment**
- **Other violent crimes:** Where women are more likely to be attacked by people they know, men aged 16-24 are nearly twice as likely as any other group to be a victim of violent crime. This group of men is also much more likely to be perpetrators of violent crime<sup>45</sup>
- **Discrimination in employment:** There is a lack of awareness of employer responsibilities and confusion about statutory maternity entitlements. A fifth of employers could not cite a statutory entitlement when asked to do so. 11% stated that paid time off to attend antenatal appointments was an additional benefit and 2% stated that maternity pay was additional rather than a statutory benefit<sup>46</sup>

Trans people also report negative experiences where employers and human resources departments do not understand the law in relation to trans discrimination. 40% of trans survey respondents who have used a HR/personnel department as a transgender employee rated the quality of service they received as "extremely poor".

*"I had to leave this employment due to employers giving out personal information that only human resources should have known about. I was then subjected to abuse by colleagues."*<sup>47</sup>

- **Trans people registering name changes**
- **Relationship breakdown and parenting:** Scotland has the highest percentage of lone parent families in the UK, with nearly one in four children living in lone parent households and roughly 151,450 lone parents, of whom 91% are women and 55% are 35-44 years old.<sup>48</sup> Women and men therefore may have different legal needs around divorce, financial maintenance, property rights, parental rights, and child contact

Issues relating to access, treatment and outcome may include:

## *Access*

- Childcare issues can create a barrier for parents (in particular, women) accessing services<sup>49</sup> – considering how waiting and interview rooms can be made more child-friendly or whether home visits can be offered might help to reduce these barriers
- Some men and women will have preferences about whether they speak to a male or female solicitor, so having a choice may increase business

## *Treatment*

- Survivors of domestic violence and/or sexual assault are likely to need particular reassurance that their case will be dealt with confidentially, that their choices will be respected and that they will be treated empathetically and non-judgmentally
- Solicitors need to be alert to the often inter-linked nature of women's social problems and their victimisation and/or offending. For example, women with histories of violence and abuse are over-represented in the criminal justice system. Relationship problems, coercion by men and drug addiction all feature very strongly in women's patterns of offending, which are much more likely to focus on acquisitive crimes.<sup>50</sup> The incidence of mental health problems and reliance on alcohol or prescription drugs is particularly high amongst women living with domestic violence

## *Outcome*

- 59,847 incidents of domestic abuse were recorded by the police in Scotland in 2011/12 – 54% of these led to the recording of a crime or offence<sup>51</sup>
- The Scottish Government reported that rape rose by 19% in 2011/12 and, collectively with attempted rapes, there was a rise of 13% in reported incidents of these crimes. Rape Crisis Scotland points out that only 25% of rapes are currently prosecuted<sup>52</sup>
- While males accounted for 84% of all convictions in 2010/11, they represented 91% of custodial convictions. Females accounted for 16% of all convictions and were given 26% of other sentences (mainly admonition)<sup>53</sup>
- In 2011/12, women made up 6% of the average daily prison population.<sup>54</sup> Yet, statistics highlight an increasing rate of imprisonment for women despite the fact that their offending patterns are less serious<sup>55</sup>

**“Women’s participation in virtually all forms of criminal activity is far lower than their male counterparts, and this, in turn, renders them less visible in our system of criminal justice. Women are less likely than men to be in prison for violent offences and more likely to be in prison for dishonesty offences.”**

Scottish Courts Service Gender Equality Scheme<sup>56</sup>

- Most of the women in prison are mothers; some are pregnant. 30% will lose their accommodation while they are in custody<sup>57</sup>

## Some facts and figures about disability in Scotland

Around a third of households in Scotland (34%) contain at least one person with a long-standing illness, health problem or disability. Households comprised of older people are more likely to contain someone with a long-standing health problem or disability, with over half of 'older smaller' (53%) and 'single pensioner' households (56%) doing so compared with only 18% of small family households.<sup>58</sup>

The Mental Health Foundation has estimated that one in four of us will experience problems with our mental health at some stage in our lives.<sup>59</sup>

There are an estimated 120,000 people in Scotland with learning disabilities, ie who "have a significant, lifelong condition that started before adulthood that affected their development and which means they need help to understand information, learn skills and cope independently". It is estimated that only 30,000 of this group are in regular contact with local authorities or the health service in Scotland, though some of the others will have occasional contact.<sup>60</sup>

The employment rate for disabled people was 46.3% compared with an overall employment rate of 70.7%. A total of 47.8% of people with a disability were economically inactive. This is more than 2.5 times higher than that of non-disabled people.<sup>61</sup> Disabled men experience a pay gap of 11% compared with non-disabled men, while the gap between disabled women and non-disabled women is double this at 22%.<sup>62</sup>

## Disability in the legal profession – issues and experiences

In the 2006 Law Society survey, only 2% of respondents (n=70) considered themselves to have a disability. This proportion changed little in the 2009 survey, where only 3% of respondents (n=51) indicated that they considered themselves to have a disability.<sup>63</sup>

Problems with access – both in terms of mobility and communication – can present a significant barrier to disabled people wishing to enter the profession and those already in it. University buildings, solicitors' offices, courts, meeting venues and places where solicitors socialise and entertain need to be fully accessible and lawyers with sensory impairments may need to receive documents electronically or in large print, use loop systems, or use dogs or interpreters.

**"The disabled facilities in many of the university buildings I have seen are appalling, especially in terms of access. If I were in the position of a prospective student who had a disability, I would be put off studying law for that reason alone. It's no wonder I didn't see a single disabled student in any of my classes throughout university."**

Grange Group/LSS (2006)

In a commercial setting where solicitors' services are charged out by the hour, prospective employers may fear the cost and time implications of making reasonable adjustments. Where competition is fierce, it may be even more difficult for disabled lawyers to find suitable traineeships and jobs than their non-disabled peers. Some of those who are successful may find that the culture of long work hours is not sustainable alongside a medical condition.<sup>64</sup>

Those with 'hidden' disabilities may decide not to disclose their additional support needs through fear of the impact this may have on their career prospects.<sup>65</sup> Mental health problems can attract particular stigma and, even when these have come out of workplace problems, LawCare reports that solicitors are often unwilling to consult their GP in case this ends up on their medical records and has a negative impact on subsequent job applications.

**“If you say you have ‘mental health issues’ everyone assumes you are untrustworthy, or a psychopath! It is about time these barriers were broken down!”**

Solicitor in England, completing GDS (2006) survey

Those solicitors who have taken a career break are much more likely to report that they have been discriminated against in their employment than those who have not and the incidence of discrimination appears to increase with the number of breaks that are taken.<sup>66</sup> For some disabled solicitors, career breaks may be the only way to manage their health conditions in a culture of long work hours, in which flexible working arrangements can be difficult to negotiate and sustain.

## Needs and issues for disabled people accessing legal services

Disabled people may need legal advice on any area, though particular issues may include:

- Accident, injury, medical negligence and compensation
- Employment discrimination, including failure to make reasonable adjustments and unfair dismissal
- Inaccessible services
- Problems accessing health, social care, and benefits
- Compulsory treatment or detention under the Mental Health Act
- Power of attorney
- Hate crime

A survey of disabled people by the Disability Rights Commission and Capability Scotland<sup>67</sup> found that 47% of respondents had been attacked or frightened by someone because of their disability. One in five had suffered an attack at least once a week. Those with learning difficulties were most likely to be targeted (although those with mental health conditions and visual impairment were also frequent victims). Of those who were attacked, 35% were physically assaulted, 15% were spat at and 18% had something stolen. Hate crime had a particular impact on the victims. A third avoided certain places and a quarter had moved house as a result of an attack.

Some of the potential barriers relating to access, treatment and outcome include:

## Access

- Accessibility of solicitors' offices (or use of home visits/alternative venues where offices are inaccessible)
- Finding out which solicitors are accessible
- Accessing interpreters or advocates, where necessary

**“I am a wheelchair user and was unable to gain access to the meeting room at my solicitor’s office, so when I went to visit I was admitted to the broom cupboard where my solicitor spoke to me. The conversations were of a very personal nature [about my divorce] and were subsequently carried out in full view and hearing of anyone coming through the front door because the cupboard was too small to accommodate me, thus the door remained open.”**

Workshop participant in LSS (2006) Service Accessibility Review

## Treatment and communication

- Attitudes and awareness of support staff and solicitors
- Availability of documents, information and advice in plain English and/or alternative formats
- Sufficient time to ensure effective communication and understanding
- Awareness of the impact of language and stereotyping on disabled people within the legal system. For example, attacks against disabled people are often described as “senseless” or “motiveless”, which can mask the fact that they are effectively hate crimes. Disabled victims are labelled as inherently “vulnerable”, which supports the perception that their victimisation is inevitable<sup>68</sup>

## Outcome

- Access to specialist legal advice and representation

**“...a key barrier to disabled people exercising their rights is advice agency advisers’ lack of knowledge of legal issues relating to disability, coupled with a lack of in-depth advice and support for representation on areas of law which particularly affect disabled people.”**

Kaliani Lyle, Chief Executive of Citizens Advice Scotland, 2006<sup>69</sup>

- Criminal justice professionals may be reluctant to prosecute cases with disabled witnesses, who may require extra support or whom they believe will be seen as unreliable by the court<sup>70</sup>

# Disability

- Poor communication between health, social services and criminal justice professionals can mean that 'vulnerable adults', in particular those with learning disabilities, do not get proper access to justice<sup>71</sup>
- More than 70% of prisoners are known to have mental ill health and 20-50% of male prisoners have a specific learning disability<sup>72</sup>

## Some facts and figures about sexual orientation in Scotland

It is estimated that there are approximately 300,000 gay men, lesbians and bisexual (LGB) people in Scotland, constituting 6% of the population.

The 'pink pound' is worth £7 billion a year to the Scottish economy.

A total of 94% of Scots say they would be comfortable if they had a gay colleague; 64% of LGB people are 'out' (ie have disclosed their sexual orientation) to their employers; those who feel safe enough to be out at work earn, on average, 50% more than those who do not.<sup>73</sup>

By the end of 2010, a total of 3,307 partnerships were registered in Scotland after the implementation of the Civil Partnership Act 2004.<sup>74</sup> It is estimated that 31% of lesbian women and 13% of gay men have children.<sup>75</sup>

## Lesbians, gay men and bisexual people in the legal profession – issues and experiences

Research on English LGB solicitors' careers and experiences<sup>76</sup> found that:

- Although few examples of direct discrimination were reported, perceptions and fears of discrimination can exert considerable influence over the career decisions and experiences of LGB solicitors
- Many solicitors only really decided to be out at work once they had progressed a reasonable way along their career, or were in an environment that fostered diversity amongst staff
- Those working in large cities were more likely to be out than solicitors in provincial or rural locations where there was little in the way of local networks
- Deciding not to reveal their sexuality at work puts additional strain on LGB solicitors in what is already an intensive work environment – this is an even more difficult balancing act in 'macho' work cultures

**“When you’re still moving up the slippery slope you have a feeling, and it might be unjustified, that if you’ve got ten people going for a job you might lose out because you’ve come out. So while I was still doing the career progression thing I didn’t come out, but once I’d reached the level I wanted to be at, further progression would be very nice but it wasn’t what I was looking for, that made it far more relaxed. In a sense I couldn’t care less what people think about me now.”**

Gay solicitor in his 50s, quoted in Chittenden, T. (2006)

## Needs and issues for LGB people accessing legal services

Some of the specific legal issues that may arise for LGB people include:

- Discrimination and harassment, both in employment and accessing services, and hate crime
- Adoption and fostering
- Recognising same sex partners in medical consent, wills, tenancy rights, financial products, etc
- Ending a civil partnership

Some of the potential barriers relating to access, treatment and outcome include:

### *Access*

- Very few law firms in Scotland have promoted themselves as being 'gay-friendly'

### *Treatment*

**“The experience of LGB people is that they often derive less benefit from seeking professional help because they have to mask their identity – unless you can be honest about all aspects of yourself, you won’t get the right advice that you need.”**

Chief Executive of Stonewall Scotland, guidance consultation

### *Outcome*

Seven in ten victims of homophobic incidents reported them to no one. Frequent reasons for not reporting incidents include:

- Not believing the police could or would do anything about it
- Not believing what they experienced was serious enough to report
- Incidents happening too frequently to report
- Victims not wishing to out themselves and/or being concerned about a homophobic reaction

**“I have in the past had windows broken and been assaulted, although these were not random acts but were carried out by people who I have worked with and still work with.”**

Tom, 43, Scotland<sup>77</sup>

## Religion or belief

At the 2001 census, just over two-thirds of the people of Scotland reported having a religion. The most popular religions were:

<b>Church of Scotland</b>	<b>42%</b>
<b>Roman Catholic</b>	<b>16%</b>
<b>Other Christian</b>	<b>7%</b>
<b>Muslim</b>	<b>0.84%</b>

As detailed data from the 2011 Census is not available until late 2013, more recent population estimates by religion are available through the Scottish Household Survey. The 2009/10 data shows a higher number of the Scottish population reporting no religion at 40.9%; one third (33.4%) of people reported their religion to be Church of Scotland, 14.7% Roman Catholic and 7.6% other Christian. After Christianity, Islam was the most common faith with 1.3% describing their religion as Muslim.<sup>78</sup>

### Religion and belief in the legal profession – issues and experiences

A total of 35% of solicitors responding to the 2010 membership profile survey<sup>79</sup> identified themselves as Church of Scotland; 14% identified themselves as Roman Catholic and 7% as other Christian; 39% said they did not have a religion and less than 3% had other faiths. This breakdown closely reflects that given by the Scottish population as a whole in the 2001 Census.

Some of the issues and potential barriers for solicitors and trainees from religious minorities may include:

- Social events in the profession often involve alcohol and/or are held in venues where alcohol is served. Although attending and/or drinking are not compulsory, these events are often a vital way of networking within firms and generating new business
- Access to prayer facilities and time to use them
- Dietary requirements
- Taking leave to celebrate festivals of religions other than Christianity
- Working during periods of religious fasting
- Religious dress

**“What a lot of people don’t realise is that you can often be awake in the middle of the night... but you don’t feel like you can change your working hours. It would make life much easier if things like that were taken into account... I have to take my annual leave during the fasting period, rather than come into work exhausted.”**

Quote from our consultation

“I believe that I was not given the opportunity to progress at work or considered for promotion because of the way I look and that I choose to wear the veil.”<sup>80</sup>

### Needs and issues for people of different religions and beliefs accessing legal services

In 2012/13, 687 charges were reported with a religious aggravation. This is a 24% decrease compared to 2011/12, with 901 charges reported. The figures for the preceding five years were relatively stable, with between 600 and 700 charges reported each year.

Similar to previous years, a substantial proportion (40.9%) of all charges were in Glasgow, 91% were male and 48.6% of all accused were between the ages of 16 and 30. The accused was described by the police as being under the influence of alcohol in 48.5% of charges.

As with 2011/12 and 2012/13, Roman Catholicism and Protestantism were most often the religions that were the subject of abuse (56.5% and 29.3% respectively). There has been an increase in charges where conduct was derogatory towards Islam, from 2.2% of the total in 2011/12 to 11.6% in 2012/13.<sup>81</sup>

Some of the specific legal issues that may arise in connection with religion or belief include:

- Religious discrimination, both in employment and access to services
- Sectarian incidents, especially at sports events, pubs and workplaces
- Harassment or assault motivated by religious hatred
- Access to faith or secular schools
- Compatibility of legal system and decisions with those from non-Christian religions (eg with sharia law)

## Some facts and figures about older people in Scotland

In mid-2011, 17% of Scotland's population was 65 years and over. The 75-plus age group has increased by 15% in the decade from 2001 to 2011. The ageing of the population is also evident in the rise of 13% in the 45-59 age group, and of 15% in the 60-74 age group.<sup>82</sup> The number of children in Scotland aged under 16 is projected to decrease by 1.5% by 2033 from a 2008 baseline, while the number of people aged 75 and over is projected to increase by 84% over the same period.<sup>83</sup>

Between 2008/9 and 2009/10, the proportion of pensioners in relative poverty was 17%. In 2009/10, 8% of pensioners in Scotland lived in absolute poverty. According to indicators, 10% of over 65's in Scotland are "materially deprived".

Up to £5 billion of means-tested benefits that should rightfully go to older people in the UK is unclaimed each year, equivalent to a total of £13.9 million a day.<sup>84</sup>

## Older people in the legal profession – issues and experiences

Of the 3,017 solicitors responding to the Equality and Diversity in the Legal Profession in Scotland survey, 4% were aged 61 and over. A slight increase was noted in the 2010 membership profile survey.

Older people in the profession are, as a group, advantaged in terms of salary and power. A total of 24% of those aged 46 and over (compared to 14% of all solicitors) earn more than £100,000 per annum; 44% of those aged 46 and over are equity partners (compared to 24% of all respondents) and 9% of this age group act as sole practitioners.<sup>85</sup>

Traditionally there has been a strong link between career progression and age within the legal profession. The introduction of legislation to protect current and prospective employees from age discrimination means that these links may be challenged. The profession needs to ensure that younger lawyers seeking promotion are not discriminated against due to age and that any barriers for mature entrants are removed.

**"As a latecomer to study and the legal profession, in recent years I have still been asked in interview about how I will manage my childcare whilst at work; I have not been interviewed, when on paper I was an appropriate candidate, except for being 15 years older than all the other applicants; I have been unable to apply for certain bursaries as I was outside the upper age limit, and so on."** <sup>86</sup>

Law Careers Advice Network Newsletter, Focus on Mature Students, spring 2005

Universities offering graduate and part-time LLB programmes attract much higher numbers of mature entrants.<sup>87</sup>

**“I think I would have found a law degree too dry and abstract at 18. Studying as a mature student brought law alive because the students brought their own stories, and histories, to class.”**

Julie Hines, quoted in The Birkbeck School of Law Alumni Newsletter, 2005<sup>88</sup>

## Needs and issues for older people accessing legal services

Research conducted by the Scottish Legal Aid Board found that older people are more likely to seek advice on legal aid from a solicitor than younger people: 67% of those over 55 said they would go to a lawyer for advice on legal aid.<sup>89</sup>

Particular legal issues for older people may include:

- Wills and powers of attorney
- Elder abuse (including financial abuse by relatives and strangers; and abuse by care staff)
- Housing issues, including moving to accessible/affordable homes; accessing suitable sheltered or residential places; equity release; harassment and rights in the private rented sector; neighbour nuisance; and loss of housing tied to employment
- Access to medical treatment and/or health and social care

### Some facts and figures about younger people in Scotland

In 2011, 17% of Scotland's population was aged under 16 and there are approximately 1.3 million children (under 18 year olds).<sup>90</sup>

An estimated 100,000 Scottish children are living with domestic violence and, in any one year, approximately 8,000 children under the age of 16 are living in families where parents are divorcing.<sup>91</sup>

Over the last decade, the number of children on the child protection register has fluctuated but overall increased from around 2,000 children in 2002 to 2,700 children in 2012. More than half of children on the child protection register are aged under five. On average, three children per 1,000 are on the child protection register.<sup>92</sup>

At 31 July 2012, there were 16,248 children looked after by local authorities. The number of children looked after has increased every year since 2001, and is at its highest since 1981.<sup>93</sup>

There were 237 admissions in secure care accommodation during 2011/12; 42% of young people in secure care accommodation were aged 16 years and over.<sup>94</sup>

An average of 80 children under the age of 16 become homeless every day. One in four of all homeless applications are made by young people aged between 16 and 24 years old.

Around half of all 13 to 16 year olds undertake some kind of paid work. It is estimated that around one in five of these children will have an accident at work.<sup>95</sup>

### Younger people in the legal profession – issues and experiences

Over a third of solicitors who reported suffering discrimination in the Equality and Diversity in the Legal Profession in Scotland survey were under 35. The survey also found that this age group was more likely to work full-time than other groups.<sup>96</sup>

Scotland has a young law student population; 65% of those starting a law degree in 2011 were either 17 or 18 years old.<sup>97</sup> The majority of lawyers have completed their training by age 30.

A total of 81.3% of law students graduating in 2005 were carrying debts as they embarked on their final practical stage of training; 60.5% of students owed more than £5,000 at this point.<sup>98</sup> The average annual income of trainees responding to the 2006 Equality and Diversity in the Legal Profession in Scotland survey was £16,380. The Law Society has a recommended minimum pay for trainees. Newly qualified solicitors may be particularly vulnerable to the increasing threat of redundancy in the profession.

**“In the legal profession people expect trainees to earn their place in the hierarchy (ie at the bottom) with low salaries and sometimes minimal training.”**

Torrance, C (2008) writing in *The Firm*<sup>99</sup>

Competition for traineeships and newly qualified posts can be fierce in some sectors, though Torrance (2008) argues that there can be scaremongering around the scarcity of placements. Our consultation identified a particular shortage of traineeships in criminal law, resulting from cuts in legal aid. Commercial and high street firms are the most popular preferences for traineeships, with legal aid and rural practices the least popular.<sup>100</sup>

The Firm launched a campaign in spring 2008 to raise awareness about the negative experiences of some young lawyers. Whilst some young lawyers reported overt bullying and harassment, some of the more common problems derive from traineeships which are not providing people with appropriate support and development opportunities.<sup>101</sup>

**“Bullying is very much alive in the profession... This is particularly evident between partners and trainees. Younger members of staff are often the less senior party and cannot do anything as the firm in question will always back the partner.”**

Male 25-30, quoted in Law Society Scotland/The Grange Group (2006)

## Needs and issues for younger people accessing legal services

In 2006/07, the Scottish Children’s Reporter Administration received more than 100,000 referrals involving 55,000 children, and 42,000 hearings were held.<sup>102</sup>

Scottish children have stronger legal rights and acquire legal rights and responsibilities at a younger age than their English peers. However, it can be difficult to get information to children – especially those who are the most disadvantaged – about their rights and how they can exercise them. Furthermore, it can be challenging to get a child’s voice heard and paid attention to, especially where it does not coincide with the views of his or her parents.

Particular legal issues for children and young people include:

- Abuse
- Parental separation
- Contact with abusive parents and/or parents who have problems with alcohol, drugs or mental health
- Accessing additional support for learning and education
- Issues facing children who are in local authority care

### Some facts and figures about class and deprivation in Scotland

In 2011/12, there were 710,000 individuals living in relative low income poverty before housing costs. This represents 14% of the Scottish population.<sup>103</sup> Low pay is most prevalent in Dumfries & Galloway, Clackmannanshire and Moray. This is very different from the picture for worklessness which is most prevalent in west central Scotland (Glasgow, Inverclyde and West Dunbartonshire).<sup>104</sup>

A total of 20% of the Scottish population lives in rural areas; 6% of the total population lives in areas that are defined as “remote rural”. These people have a greater than 30-minute drive time to the nearest settlement with a population of 10,000 or more. Although access to services can be an issue for many living in rural areas, the rural population as a whole does better than the rest of Scotland on a number of measures, such as economic activity, destination of school leavers, proportion of those earning £20,000 a year and more; and access to the internet from home.<sup>105</sup>

People in the least deprived areas of Scotland are about twice as likely as people from the most deprived areas to be participating in higher education. Where those from the most deprived areas do study higher education, they are much more likely to do so at an further education college or newer university/Open University and in subjects where graduates tend to earn the least.<sup>106</sup>

### Social class in the legal profession – issues and experiences

The image of the legal profession amongst many school leavers is that it is dominated by white, privately educated, middle class people. Pupils from less affluent backgrounds are most likely to have a misconception that you need higher grades to study law than is actually the case and that you need to be ‘very brainy’, articulate, confident, good at arguing and able to think on your feet’.<sup>107</sup>

Analysis of UCAS data for Scotland suggests that, relative to all other subjects, law performs slightly worse in terms of proportions of students from lower socio-economic groups. There is a risk that those from lower socio-economic groups may be discriminated against by use of non-academic criteria such as extra-curricular activities to decide between borderline applicants, both for courses and traineeships.<sup>108</sup>

Today, fewer younger solicitors report that their father was in the legal profession than was the case in the past; however, there is an increasing trend towards fathers and mothers of those becoming lawyers having a professional job of some description.<sup>109</sup> Those whose parents work in the legal profession are significantly less likely to be concerned about possible victimisation if they complain about discrimination.<sup>110</sup>

“Due to the introduction of student fees, I think that the salary level of trainees has to be reconsidered. The time taken to obtain a degree, undertake the Diploma and the traineeship is seven years, far longer than it takes most graduates to reach a professional’s salary. Even then, most salaries for newly qualified staff are in the mid-£20,000, far less than the equivalent surveyor or doctor would be on three years after graduating. This is making the legal profession a far less attractive option to those who are financially stretched.”

“Applying for traineeships is a nightmare. It’s all about who you know and it doesn’t matter what courses you take or how well you do.”

### Needs and issues for people from different socio-economic backgrounds accessing legal services

Respondents who were living in rented accommodation, in receipt of housing benefit and/or unemployed were more likely to have a justiciable problem (ie which raised a legal issue, whether or not they recognised it as such or had taken action).<sup>111</sup>

Professional people are more likely to consider using a lawyer for information on legal aid than other groups.<sup>112</sup> Those in the middle income brackets tend to use solicitors less than either those on lower incomes or those who are better off, due to assumptions (rightly or wrongly) that they will not qualify for legal aid. Many people are put off accessing the legal profession through fear of prohibitive expense.<sup>113</sup>

Unison reports that Scottish workers face significant difficulties gaining access to justice through courts and tribunals. They point out that Citizens Advice Bureaux and law centres are usually under-funded and over-stretched; that the proportion of civil cases securing full legal aid is diminishing; and that legal aid spending on discrimination, employment and housing cases makes up a tiny proportion of these cases.<sup>114</sup>

## Employment and training

This section of the guide takes readers through the life cycle of an employee in a law firm – from seeing the vacancy advertised, right through to the moment when they leave the organisation.

For each stage of the life cycle, we have explained the business case for considering the issue, and highlighted risks for equality and steps that can be taken to mitigate those risks.

In all cases, we provide examples of good practice and practical tips that can be considered and adapted by all firms.

Some themes are clear as the life cycle unfolds:

- Clear policies can promote consistency and fairness, and prevent problems from arising later
- Formal arrangements (for example, for supervision, training and development, pay and reward, induction) are better than informal ones that rely on discretion or goodwill (which are therefore possibly inconsistent or even discriminatory)
- Clear expectations for people joining organisations – about the quality and volume of work, about how supervision is done, about unofficial 'rules' that govern the culture of the workplace – can make all the difference. This clarity at the outset also makes it much easier to give early and constructive feedback later on. Research suggests that this is a powerful equality issue – people who are in a minority in the workplace are less likely to receive this vital help
- Arrangements at key stages of the life cycle can be reviewed and monitored, to show up possible patterns. For example, you can monitor whether pay and rewards are equal for women and men, or for people from white or minority ethnic backgrounds. You can monitor whether the expected candidates apply for jobs, and are successful; you can review whether some people leave jobs before you expect them to

# How discrimination operates in the workplace

Discrimination and inequality work in complex ways in the legal profession and in law firms, using a variety of 'mechanisms'. Many of these are illustrated in this guide, and a few general examples are given below.

Mechanism	Example
Exclusion	Many people, especially those with caring responsibilities, some people with religious beliefs, and some disabled people, will be excluded if induction happens in the pub, or after work.
Stereotyping	Remarks are made about people that indicate stereotyped attitudes towards older people, lesbian and gay people, people from minority ethnic backgrounds, etc.
Making people invisible	Routine questions about an emergency contact, or even friendly questions about the weekend, can be difficult to answer for people who have a same sex partner.
Taking credit for the work of others	Less senior or administrative staff are sometimes not given credit for their contributions.
Blaming the victim	Those who complain of harassment can find that they (and not the harasser) are moved from one location to another or that their harassment is blamed on their behaviour or personality.
Using discretion	Research indicates that we all make easier connections with people who have similar backgrounds: if promotion systems are based on discretion, they are likely to favour those most like the people making the decisions.
Bullying and harassment <sup>115</sup> (see Law Society research and guidance on this topic)	Bullying is often described as the process whereby an employee is intimidated, mistreated or humiliated. It can be characterised by offensive, malicious or insulting behaviour which is designed to undermine the confidence and capability of the victim. Harassment can be described as unwanted behaviour which affects the dignity of people at work. It may be persistent or an isolated incident.

## The business case

Recruiting the best people is essential to the success of a firm. Job adverts and trainee programmes that appeal to a diverse audience, increase choice and maximise the opportunities to attract a broader range of skills, experience and talent to the business. This can prove invaluable both in improving client care and in exploring new customer markets.

One senior partner we spoke to explained that the diversity of ethnicity, religion and sexual orientation amongst those employed at her firm:

**“...brings a breadth and depth you need to educate people in the office and it also helps in your business development, both in terms of different thinking, broader knowledge and a fresh approach to marketing.”**

Senior partner

Promoting a commitment to equality and diversity through recruitment is good for attracting and retaining both employees and clients. It enhances the reputation of the business, by demonstrating it is a responsible, reasonable and fair employer and a business that has integrity and quality assurance at the heart of its operations.

Client organisations, especially those in the public sector, are increasingly requiring evidence of good practice in promoting equality in recruitment and selection (see Procurement for further discussion).

Employers have a legal, moral and ethical duty to ensure that they uphold the principles of equal opportunities and anti-discriminatory practice. It is therefore crucial to ensure that the recruitment process is compliant with both the spirit and the letter of the Equality Act 2010 and that each stage of the process is fair and objective. This reduces the risk of being subject to accusations of discrimination and also promotes well-informed decision-making.

This section provides information relevant for the employment of all staff, but the Society has a particular interest in ensuring trainee recruitment meets required standards, as this is part of the regulatory process of becoming a solicitor, and so affects the Society and the profession as a whole, as well as the individual employer.

# Attracting Applicants

Possible risks to equality	Top performing firms will want to take action to:
There is a risk of direct or indirect discrimination against one or more groups if the requirements for the job are not relevant, essential and justifiable in relation to the role and the needs of the business.	Take steps to remove unnecessary barriers for potential applicants from diverse backgrounds, eg by showing their willingness to make reasonable adjustments or to offer flexible working arrangements.
Narrow advertising of jobs (for example, through word of mouth alone) can limit choice and flexibility for recruiters.	Consider different ways to promote their firm to diverse applicants. For example, more firms are advertising online and through social media to increase access.
Hosting or attending recruitment events that are not accessible or that revolve around alcohol may limit the pool of applicants you attract.	Assess what capacity there is to accommodate disabled applicants and be clear in their recruitment literature that support and resources can be provided to assist people with accessing the application packs and process.
There is a risk that recruitment agencies may discriminate on your behalf (you can be liable for this under the Equality Act 2010) by selecting only the candidates they think you will want.	Provide a clear brief to recruitment agencies about their requirements and expectations around equal opportunities. Check their credentials in this respect and look at examples of their work.
Failing to supply clear information, helpful guidance and good quality forms in recruitment packs may deter people from applying for the position and damage the image of the business.	Give prospective applicants an opportunity to get a sense of their firm's culture and values through written materials, testimonials from previous trainees, short placements, open days or other events.
Every year the Society receives a number of complaints from people about the recruitment processes followed in firms, and these could develop into a formal complaint against the firm.	Have a clear equal opportunities statement in their adverts and materials aimed at prospective trainees and ensure their recruitment processes are rigorous and transparent.

**“We maintain a constant relationship with (a handful of recruitment) consultants, keeping them informed as to what’s happening at DLA. We invite them to presentations and conferences – they are like a partner to the firm.”**

Bruce Westbrook, Managing Partner, DLA Piper Rudnick, Edinburgh

### Specific risk: the use of PQEs (post qualification experience)

(Excerpted from Journal of the Law Society of Scotland, August 2010, Gavin Ward, author). The article provides examples of managing the risk of PQEs and getting the best candidates. The article can be found at [www.journalonline.co.uk/Magazine/55-8/1008509.aspx](http://www.journalonline.co.uk/Magazine/55-8/1008509.aspx)

“A challenge for employers is that relying too heavily on PQE as a guide to suitability and competence can be problematic, both in terms of getting the best candidates and staying on the right side of the law. Indeed, using it exclusively, for example to shortlist candidates or make final selection of a candidate, could amount to unlawful, indirect age discrimination.”

“Many job advertisements typically ask for minimum or, sometimes, maximum ‘X years PQE’. Take, for instance, an advertisement specifying ‘3-4 years PQE’. If you leave school at, say, 17 years of age and train to be a solicitor in Scotland, then you cannot have achieved three years’ PQE until you are 27 years old, at the very earliest. Potentially, such an advertisement discriminates indirectly against those under the age of 27.”

“At the other end of the spectrum, it discourages older applicants, who may have many more years of useful experience pre- or post-qualification, gained in the legal profession or elsewhere, perhaps in business or academia. However, under the legislation, age should not be a barrier for entering the employment market.”

“The Equality Act 2010 serves as an important reminder to those in the profession to be vigilant and to focus on competence and experience in its broadest sense, rather than relying on crude ‘rules of thumb’ that no longer reflect best practice.”

Guidance Note: PQEs, particularly when rigidly applied, may also discriminate indirectly based on gender. For example, a female candidate may be deemed to have less PQEs if she has taken time off to raise a child.

## Recruitment and reasonable adjustments

The Equality Act imposes a duty to make “reasonable adjustments” for disabled persons. Reasonable adjustments are changes needed to prevent a disabled employee or candidate from being at a disadvantage. Adjustments can be necessary at every stage, from job design, interview and assessment, through to making an offer and decisions over the retention of existing employees.

Selection processes must be capable of responding to changes either requested by or required for applicants with disabilities. An employer only has to make these changes where it knows, or could reasonably be expected to know, that a job applicant is disabled within the meaning of the Equality Act. This means the employer needs to do everything it can reasonably be expected to do to find out.

Reasonable adjustments are designed to remove barriers, not to lower the bar or change the criteria. The focus remains on getting the best person for the role. A failure to make reasonable adjustments amounts to unlawful discrimination.

What is reasonable is not clearly defined by the law, so the employer needs to consider whether it is confident that something is reasonable in the particular circumstances. Elements to be considered include:

- Whether the adjustment will be effective in reducing or eliminating that particular person's disadvantage
- Whether it is practical. The simpler it is to put in place, the more likely it is to be considered reasonable. However, there are times when it can prove more difficult to put the adjustment in place. In those circumstances, the potential adjustment needs to be weighed against other factors and not simply discounted without careful consideration
- Whether the associated costs and resources required to implement the adjustment are reasonable

Some things employers should do include:

1. Always start at the point of job analysis and be certain the criteria and the assessment process can be justified.
2. Check in advance if the recruitment process is accessible, including any online processes.
3. Have a clear process in place to work out the adjustments required and to implement them.
4. Provide a helpline and/or email address for people to contact for support or information on reasonable adjustments throughout the selection process.
5. When using assessments, check with the test provider if they present any barriers for disabled applicants. It is recommended to only use a test provider who can provide advice and support on reasonable adjustments.

## More top tips on implementing good practice

Law firms are increasingly recognising the power of the internet to attract potential applicants<sup>116</sup> and good firms recognise that their recruitment website is one of the most potent expressions of their 'employer brand',<sup>117</sup> enabling potential applicants, clients and their own people to see their values in action.

### Good practice example:

#### Burness Paull & Williamsons: attracting diverse applicants

The firm's website is a vital tool for getting across messages about the firm's stance on equality and diversity since all trainees apply online through it. Burness Paull & Williamsons has taken these steps to promote an inclusive image and to ensure that the widest pool of people applies to work with them:

- Including a brief diversity statement on the website
- Offering six-week summer placement as well as traineeships
- Using audio podcasts, typical diaries, images and profiles of visibly diverse trainees and summer placement students talking about their experiences at the firm
- Providing clear information about what the firm is looking for in its people
- Giving advice and answers to frequently asked questions about the recruitment process
- Putting an advert for the firm in Equality Britain magazine

**See [www.burnesspaull.com](http://www.burnesspaull.com) for further information**

- When planning any direct recruitment advertising, look at a cross section of adverts to get useful examples of layout, language, tone and key messaging around equal opportunities and diversity
- Use a positive action statement in your adverts, when you are clear that you are under-represented in your workplace and/or you want to try to attract applicants from particular parts of the labour market/community to help develop and improve the business

### Sample positive action statement:

**"We are particularly keen to attract applications from women and minority ethnic people, who are currently under-represented in the legal profession."**

# Attracting Applicants

- Update knowledge and information on good practice in recruitment through signing up to specialist websites/newsletters; attending training/conferences. The law in this area is now highly complex and frequently changes, so unless you work in the field of employment it is likely you will need to actively work to keep your knowledge up to date
- Consider working with a human resources expert to check that your recruitment packs and processes are clear and barrier-free
- Try to ensure that recruitment panels have at least three people on them and are diverse (e.g. gender, knowledge, ethnicity, role, etc). This helps to create a positive image of the business and brings different perspectives to decision-making
- Think about how you can make recruitment packs available, if necessary, in a variety of formats for disabled people. For example, a large number of people may be helped simply by having all materials in a word processing package and document layout which easily allows text to be made larger

## Good practice example on positive action schemes: the Legal Gateway

The Legal Gateway scheme is an initiative set up by the Black Lawyers Directory to attract and support more black and minority ethnic people into the profession. The scheme is targeted at ethnic minority lawyers, trainees, paralegals, students as well as school children and adults considering a career in law. It provides access to an array of career development opportunities such as mentoring, workshops, work placements and events.

One of the programmes within the scheme is the Legal Launch Pad which is primarily targeted at ethnic minorities in their first or second year at university, whether law or non-law students, but other undergraduates and postgraduates are not precluded from applying.

DLA Piper, who won the 2008 National Graduate Recruitment Awards Diversity Recruitment Award, is a primary sponsor of the scheme:

“As an organisation, DLA Piper believe our greatest asset is our people and we are truly committed to widening access to students from all backgrounds. We believe it is essential that those entering the firm and profession reflect the society in which we live.”

For more details, see: [www.onlinebld.com/the\\_legal\\_gateway/the\\_legal\\_launch\\_pad\\_LLp.html](http://www.onlinebld.com/the_legal_gateway/the_legal_launch_pad_LLp.html)

The current scheme applies to England and Wales, but demonstrates how firms and representative groups of solicitors can work together to increase the strength and diversity of the profession.

# Selecting the best candidates

## The business case

One of the key ways of ensuring there is a good return on the investment made in the recruitment process is to devise a short-listing and interview process that maximises the opportunities to surface and capture those applicants who may have the most to offer to the business in terms of skills, experience and talent.

The ability to demonstrate that the selection process is objective, fair and accessible to applicants is a fundamental principle of equal opportunities in recruitment and delivers the business benefits of providing a higher degree of choice, flexibility and quality assurance in employment practice. It also increases the confidence of employees, applicants and clients that trainees, lawyers and support staff are being appointed on their merit.

Possible risks to equality	Top performing firms will want to take action to:
Failing to ensure that the process for selecting candidates is based on objective, fair and relevant criteria may lead to (accusations of) discrimination by one or more candidates.	Devise a clear and focused form for panels that highlights the selection criteria and the most relevant and important qualifying factors related to the role and tasks.
A recruitment panel which has had little or no recruitment experience or training may find it difficult to remain objective and could overlook key qualities and attributes necessary and pertinent to the role.	Ensure there is a panel with a good range of skills, knowledge and insight – this will put them in a stronger position to identify the best applications and performers at interview.
Overlooking candidates' specific needs around disability, transport and caring responsibilities may create unnecessary barriers for people who have been selected for an interview.	Ask relevant questions on application forms and at pre- interview stages to help ensure that any barriers to attendance are reduced or removed.
All assessment tools used at interviews, including tests and presentations, will need to take account of any specific requirements that candidates may have linked to a disability.	Devise a well thought-out set of assessment techniques that take account of the needs of disabled people.
Methods used to assess performance at interview may introduce bias or reinforce stereotypes in relation to ethnicity, gender, gender identity, sexual orientation, religion/ belief, disability or age.	Review all interview questions and other assessment tools to remove any irrelevant, prejudicial or discriminatory tone and content.

## Good practice example on selecting the best candidates: Matrix Chambers

This London-based chamber has taken a number of practical steps to ensure that its recruitment processes reflect and evidence its values of fairness and equality, and help it to select the best people.

- Job descriptions and person specifications are carefully drafted to ensure that only requirements that are relevant to the role are included
- Interview questions are checked so that they do not ask candidates for information which is not relevant to the role requirements
- Application forms are anonymised on receipt. Short-listing panels do not see any personal information about applicants so they only judge potential candidates on information relevant to the role
- Interviewers are trained in equal opportunities law and the interviewing process. This means that they are able to conduct a high quality professional interview focused on the candidates' skills and knowledge
- Job applications are monitored on gender and race throughout the end-to-end recruitment process and data is analysed against a) the applicants; b) those short-listed; and c) those appointed

Matrix has sought to extend this good practice beyond the chambers by using its buying power to influence others. When tendering for an external recruitment agency, Matrix required organisations to include details of their own equal opportunity arrangements in their responses.

**For further details, see Diversity Works for London at:**  
**[www.diversityworksforlondon.com/server/show/ConWebDoc.220](http://www.diversityworksforlondon.com/server/show/ConWebDoc.220)**

## More practical steps firms can take

- Design an application form in which applicants' personal and equalities monitoring information can be easily detached. Where numbers of applicants are relatively low, firms will need to monitor the performance of applicants by gender, ethnicity, etc over time
- Offer recruitment training to as many employees as possible, so there is a good and balanced mix of people available at all times to support recruitment. It may be worth checking with the Society's Update team when courses on this are being run, or suggest to your local faculty that it may be worth organising something for firms in the area. The Society's head of equality can provide advice on trainers and content

# Selecting the best candidates

- Consider working with an HR expert to oversee the process and ensure that it is in line with equality opportunities good practice
- Devise a standard short-listing pack, with all the necessary guidance and forms for recruitment panels
- Create a bank of questions that can be used at interviews that will enable the panel to explore understanding of and commitment to equality and diversity. Put these into a variety of contexts for each role so they are relevant and meaningful. For example, a receptionist may be asked about their actual experience dealing with clients with a range of communication impairments, whereas a trainee might be asked about their understanding of what types of access issues may arise for a firm with its clients
- Do not use any case-related scenarios at interviews that reinforce assumptions or stereotypes about groups related to issues such as age, gender, race, ethnicity, sexuality, or disability

## Sample Job Description – A.N. Other Law Firm LL.P.

<b>Job Title:</b>	Administrator
<b>Department/Section:</b>	Private Client
<b>Responsible to:</b>	Manager – Private Client
<b>Responsible for:</b>	N/A
<b>Grade:</b>	B

### **Job purpose:**

To provide varied administrative and secretarial support to the Private Client Department.

### **Specific duties and responsibilities:**

1. To deal with telephone, mail and email enquires in order to answer questions and provide information, passing queries on to other members of staff where appropriate.
2. To provide clerical support for the department to ensure items are prepared, copied and distributed as necessary.
3. To assist with the organisation of meetings, events and travel arrangements.
4. To process invoices and payments received according to procedures.
5. To assist with the maintenance of computer records and files.
6. To provide cover as required for other staff in the department.
7. To carry out any other reasonable duties that may be expected by the senior staff of the department.

# Selecting the best candidates

## Employee Specification

Factor	Essential	Desirable
Qualifications and Training	<p>Standard Grade English or equivalent</p> <p>Standard Grade Maths or equivalent</p>	<p>Higher Grade English or equivalent</p> <p>Formal Administration or Secretarial qualification</p>
Work Experience	<p>Previous office experience</p>	<p>Experience in a legal office</p> <p>Experience of working in a small business environment</p> <p>Dealing with purchase orders and expenses</p> <p>Experience in a customer facing environment</p>
Knowledge and Skills	<p>Competence in MS Word</p> <p>Competence in email</p> <p>Telephone skills</p> <p>Able to read, understand and act on complex sets of data</p> <p>Database operation</p>	<p>Mail merge on MS Word</p> <p>Ability to use Excel</p> <p>Arranging meetings</p> <p>Arranging travel</p> <p>Arranging larger events</p> <p>Diary management</p>

# Selecting the best candidates

<b>Personal Qualities</b>	Highly organised A commitment to good customer service Capable of prioritising workload Able to maintain confidentiality Self-motivated Enthusiastic A commitment to teamwork Attention to detail Good timekeeping	Evidence of commitment to ongoing training/lifelong learning Evidence of having researched the business and role
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## Short-listing

A short-listing form may simply take the criteria above and provide a tick box next to each element. As you work through the application form/CV, you can tick every time you find evidence of a particular attribute – and score the candidate on how well they match the role at the end.

## Interview questions

Think carefully about what you are trying to achieve. Start with simple questions that settle the candidate, and then start to build questions that test their experience against the criteria you have set.

It is better to ask about specific issues than make up hypothetical questions, so instead of asking “what would you do if...”, you might want a series of prompts like: “Can you tell me about the type of travel you have had to organise previously? Can you think of a time when travel plans had to be changed at short notice? What steps did you take? In your past role, what did your team look for in travel/accommodation arrangements? What do you think our firm’s requirements might be?”

These questions let you test their experience, whether they were thinking about the needs of the person travelling, and will give you some insight into what they think of your firm or organisation.

## The business case

Induction provides an initiation into the values, principles and culture of the business and so it is important to get the balance right between imparting knowledge and information to new employees, and enabling individuals to be welcomed into the business.

There is strong evidence that employees who feel relaxed and able to 'be themselves' perform better in the workplace, so a warm welcome can link directly to business performance.

## Equality issues which may arise

Where new trainees, qualified solicitors or support staff do not receive a proper, standard induction, they risk being set up to fail. Performance management at a later stage will be much more difficult when expectations of behaviour and performance have not been made clear at the outset.

An assumption is often made that those starting, particularly trainees, will understand office life and systems. However, this is not always the case.

For example, an increasing number of lawyers are the first in their families to attend university and enter professional jobs, and without a supportive induction they may make simple 'mistakes' because they do not know what is expected of them.

# Managing induction

In the absence of a formal induction process, the integration of new people into the firm hinges on their informal networking with other colleagues. There are a number of risks here:

- The information people glean in this way may not be accurate and consistent
- This may place unreasonable time pressure on colleagues if it has not been factored into their fee earning and other workloads
- It may be more difficult for those who come from minority ethnic backgrounds, are disabled, are gay or lesbian, have caring responsibilities or who do not drink, perhaps for religious reasons, to bond quickly with other staff through informal networks. These people may therefore be disadvantaged at induction and this may be reflected in their subsequent performance

Top performing firms will want to give clear messages about equality and diversity during induction. This might include information about what it means and why it is important to the business; what the firm is doing in this area; and what the implications of this are for the way in which employees relate to each other and how they work with clients.

## Good practice from law firms: induction at Dundas and Wilson

Dundas and Wilson believes that induction is essential to help trainees make a successful transition into employment and to ensure all new employees – both lawyers and support staff – are quickly brought on-board with the business context and working practices.

The induction programme for new trainees includes both practical information on tools and processes, eg systems for document management and time recording, as well as a detailed overview of the business and its values and principles. It also includes formal and informal activities to promote networking, such as team work to design and present a one-minute commercial for the business, judged by senior partners or directors, and a dinner with senior partners. Dundas and Wilson takes other steps to ensure that new trainees are welcomed and supported to the business, including providing senior partners with a 'yearbook' of new starts which includes profiles, photos and CVs.

Experienced solicitors joining the firm receive a similar programme, but in two parts. Practical process information is provided at the outset then a follow-up is held during the first three months of employment. The follow-up gives the opportunity for further discussion about the business context and model, with question-and-answer sessions involving managing partners, senior partners and heads of functions. Bill Mitchell, Human Resources Director, explains that this approach means that experienced people can start work straight away, then take part in a deeper and more stimulating discussion about the business once they have settled in.

New starters in other roles at Dundas and Wilson also receive an induction programme. This not only includes role-specific training on practical processes but also explanations of legal terms and conventions and information on the business structure and key personnel. As Mitchell points out, it is equally important for support staff to understand the business context at the firm.

Everyone taking part in the induction programme is asked for their feedback and, as a result, the programme has incorporated several changes and improvements over the last three years.

Dundas and Wilson says the benefits of its approach to induction are key:

- New employees are able to hit the ground running and become familiar with the firm's working practices and processes very quickly
- The values, context and principles of the business are communicated at the outset and expectations are made clear
- New employees have the opportunity to network with each other and meet with senior partners at an early stage

## Managing diversity in induction

- Make sure that new employees are consulted when events are planned to take account of their other commitments such as caring responsibilities or transport or mobility requirements
- If events need to be scheduled early in the morning, in the evenings or at weekends, give enough notice to allow individuals to try to make arrangements to cover their other commitments
- Ensure that the commitment to equality and diversity is clearly included in any induction packs provided to new employees and that this aspect of company policy and practice is included in any discussions with colleagues or managers in the early stages
- Provide employees with the opportunity to highlight any specific needs or requirements that may have an impact on their day-to-day work and activities, such as disabilities, caring responsibilities or religious observance. If these were identified at the interview stage, build on the information gathered to devise a clear action plan of reasonable adjustments and accommodations that can be made for the employee
- Ask 'open' questions about the way in which the employee prefers to work – for example, two employees may be equally committed and work the same hours, but one may prefer to be in early and leave promptly, whereas another may prefer to work later. On some occasions, there will be a business requirement specifically for early or late working, but at other times allowing the employee to work in the way they prefer will make them more productive
- Carefully consider what information you ask for, and how, over the first few days. Questions that seem 'routine' may be more awkward for some people to answer in their first few days. For example, asking for an emergency contact (health and safety) or next of kin (for in-service death benefit) may seem an administrative question, but if someone has a same sex partner, this may mean disclosing their sexual orientation on their first day. Equally, going for a beer after work on the first day may force people to discuss their religious attitude to alcohol, which many people might prefer to emerge over time as they get to know colleagues, rather than it being an issue on the first day
- Make sure all relevant staff are briefed about any specific needs or requirements, in a sensitive and practical manner. Discuss with the new starter how this can best be managed to reduce possible stigma

## The business case

Providing opportunities for progression and promotion is an excellent way to retain valued employees. Effective progression and promotion opportunities help firms to keep the costs of repeat recruitment and development of employees to a minimum.

Employers have a legal, moral and ethical duty to ensure that they uphold the principles of equal opportunities and anti-discriminatory practice. Ensuring that opportunities for progression and promotion are fair and objective reduces the risk of being subject to accusations of discrimination and also helps to ensure that expectations are clear and decisions are well informed.

The profession is increasingly diverse in terms of people entering the workplace and in terms of their patterns of working. Ensuring good progression opportunities for people who work flexibly or on a part-time basis wins employee loyalty in the long-term. We interviewed a woman lawyer who works part-time for a small firm in order to balance work with childcare commitments. She explained that:

**“If there was any progression available to me I wouldn’t dream of leaving my current firm.”**

Solicitor, working part-time

# Progression and promotion

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
The use of informal networks and discretion to make promotion decisions can disadvantage women and ethnic minority employees.	Formalise and clarify criteria for promotion and progression, by using and communicating standard criteria.	Partners' discussions about progression will be based on good information, rather than on personal impressions that may not be accurate.
Part-time employees and those in junior positions (who may be more likely to be women, younger people and those from ethnic minorities) can be excluded from progression if their learning and development needs are not considered.	Ensure that all employees have a structured and regular time for discussion about progression and development opportunities they need to get where they want to be.	Given the increasing desire of many women and men to work flexibly, the ability to recruit and retain good staff will depend increasingly on firms showing that different working patterns still allow development.
Workplaces with a culture of long hours put pressure on everyone, but especially people with caring responsibilities.	Encourage partners and managers to lead by example and promote a healthy work/life balance.	Stress can cause a range of problems to firms. Good work/life balance can mean that time spent in the office is more productive.
Ill-considered work allocation can have a 'glass cliff effect' where employees may be given tasks which set them up to fail. It can also mean that some lawyers do not get the opportunity to develop their skills in high quality or high profile work.	Operate a fair and supportive allocation system, linked to individual development and make sure that people receive appropriate support on their casework.	There is a risk that clients suffer from poor work and the firm's reputation is damaged; and/or that talented individuals do not get opportunities to develop and progress, and are thus likely to leave.
Decisions about progression may place too much emphasis on bringing in new clients rather than developing work with existing clients. This may disadvantage women who may generally be less involved in networks, but more likely to build good relationships.	Ensure that criteria for progression recognise and reward the full range of contributions that employees make to the business.	Successful businesses build good relationships with existing clients, recognising the value of repeat business and recommendations.

Firms that provide progression routes for people entering the profession from paralegal roles, can potentially tap into a wider pool of talent.

**“Given the higher representation of ethnic minorities and women at the paralegal level, it is important that they are given the opportunity to progress if the imbalance across the levels of seniority is to be addressed.”**

Equal Opportunities Review, July 2007

The Scottish Paralegal Association ([www.scottish-paralegal.org.uk](http://www.scottish-paralegal.org.uk)) supports paralegal employees, and campaigns to make sure that paralegal work is recognised in its own right as a career. There is now a wide variety of roles for paralegals – domestic and commercial conveyancing, trust and executry, debt recovery and family law.

A recent survey conducted by the association found that for the vast majority of paralegal workers, the priority issue is one of recognition. This is far more important to them than reward. This is an important issue for equality because the status of paralegal staff is sometimes compounded by differences of gender, class or ethnicity.

Top tips for those working with paralegal staff

- Familiarise yourself with the work that paralegal staff do, and show proper respect for the tasks and the person doing them
- Introduce paralegal staff to clients, both in meetings and in engagement letters. Make it clear that the person has your full confidence
- Delegate work properly – without ‘dumping’ it inconsiderately because you do not have time to explain or answer questions
- Allocate time in diaries to supporting and supervising paralegal staff
- Recognise that they need (and have a right to) motivation, coaching, constructive feedback, just like any other member of staff

## What firms can do

Help to develop paralegal staff who want to make a career in this role, for example, by supporting the introduction of CPD activities as proposed by the Scottish Paralegal Association.

Make a mentor available, who is not the immediate supervisor, at least when paralegals are new in post.

Make sure all members of staff are included in social events, especially those designed to support team working.

## Good practice: the role of mentoring in promoting equality

Mentoring is increasingly being used by law firms as a way of supporting the development and progression of both trainees and qualified solicitors. Mentoring essentially involves a more experienced or senior person acting as an informal adviser to someone seeking to develop their career.

HBJ Gateley pairs each of its trainees with a qualified lawyer from the outset – usually someone from the department in which the trainee will spend their first seat. David Anderson, who has been both a mentee and a mentor within this scheme, explains: “It’s an informal mechanism in which they are able to approach someone and say, ‘I’m not sure what’s expected of me here’.” For HBJ Gateley, it is important that mentoring is kept separate from appraisal and line management responsibilities, which are provided by other means within a practice area.

**See: Nicholson, P, Training plus, The Journal Online, 15th December 2008**

Just as mentoring can help smooth the transition of younger and/or newer solicitors into their roles, it can also be particularly helpful in supporting the career development of under-represented groups. The UK-wide Society of Asian Lawyers has, for example, been piloting a mentoring scheme to enable its members, whether they are solicitors, barristers, trainee solicitors, pupils or law students, to tap the wisdom and experience of others who have ‘made it’ in the law. This can range from assisting with career decisions to simply being a friendly ear.

**See: [www.societyofasianlawyers.org](http://www.societyofasianlawyers.org)**

## More practical steps all firms can take

To ensure equal access to opportunities for progression, development and promotion for all:

- Do not use ‘continuous service’ as a criterion for progression, as it may disadvantage employees who take maternity leave or career breaks for health or caring reasons. Make sure part-time employees and employees on maternity leave are included when inviting applications for progression/promotion
- If the promotion process involves using interviews, see the selecting the best candidates section; if it requires people to write a paper to demonstrate their suitability for progression, set out clearly the criteria and topic, give examples of what is expected and consider sharing successful examples

# Managing performance through training and development

## The business case

Managing performance is a crucial element of effective and efficient service provision, employment practice and business development. Performance is usually managed by a combination of:

- Formal and regular one-to-one supervision sessions
- Informal coaching and advice from the line manager and other senior staff
- An annual appraisal which sums up performance for the year and agrees objectives for the coming year
- The provision of training that helps individuals to develop the skills they need to do their job well, and to progress in their career
- A variety of ways of eliciting feedback from clients and other relevant people

In addition, many potential employees will want to see that there are tangible opportunities for personal and professional development. Making this investment is an excellent way of enhancing overall performance, and attracting talented and ambitious people.

A well thought-out and adequately resourced performance management framework linked to clear policies and procedures can make a measurable contribution to:

- Maintaining a highly skilled and competent workforce, through training and development
- Retaining valuable employees
- Recognising and rewarding talent
- Ensuring the pathways to promotion and progress are equitable, fair and based on merit and potential
- Reducing the need for staff to take out grievances and/or managers to instigate disciplinary procedures

**“If I had to choose one element of this firm that has made the difference for me it would be the regular supervision I have had with my line manager. She is very good at noticing when I have worked extra hard or done something different; she always passes on compliments from clients. And she has very high standards, so she doesn’t let me off the hook, but I can learn from her when things go wrong.”**

Administrator in a small firm

# Managing performance through training and development

Possible risks to equality	Top performing firms will want to take action to:
<p>Having a range of unclear or vague performance expectations may lead to a reliance on a range of subjective measures of success and achievement. This may lead to certain employees being disadvantaged or discriminated against.</p>	<p>Formalise and clarify fair and objective performance standards within job descriptions, person specifications, policy and procedures.</p>
<p>Introducing criteria such as the ability to work long hours, work on weekends or do extensive travel may disadvantage disabled people, and particularly those observing religious practice and those with caring responsibilities.</p>	<p>Ensure that all legitimate considerations linked to the diversity of the staff team are taken into account when defining performance standards.</p>
<p>Not having clearly established mechanisms for supervision and appraisal of staff performance may lead to ad hoc, informal and poorly managed discussions with staff. This may increase the prevalence of grievances and disciplinary actions.</p>	<p>Standardise supervision and appraisal procedures and train all staff to implement these effectively.</p>
<p>Failing to acknowledge any mitigating or legitimate factors that may impact on performance may lead to accusations of discrimination, bullying, harassment and victimisation.</p>	<p>Ensure that the business understands its duty of care to its employees (specified in policies such as Managing Performance, Dignity at Work).</p>
<p>Using a one-size-fits-all approach to delivering training activities will fail to take account of a range of learning styles amongst staff groups and undermine any potential benefit of training and development interventions.</p>	<p>Develop a training and development plan that uses a range of methods and styles to ensure there is flexibility in delivery, timing and location of workplace learning.</p>
<p>Use of informal networks and discretion to identify people for training and development can lead to discrimination and unfair advantages for certain employees.</p>	<p>Formalise and clarify criteria for selecting people for training and development by having a clear policy and guidelines for all staff.</p>
<p>Part-time employees and employees working in junior positions can be excluded from opportunities for training and development, if their learning and development needs are not considered.</p>	<p>Ensure that all employees have a structured and regular time for discussion about professional development and training needs.</p>

## Good practice from law firms: a different approach to talent management at Pagan Osborne

Pagan Osborne recognises that getting the best out of its people is key to business success. In 2007, the firm took an innovative and inclusive approach, recognising all its people as a potential talent pool and enabling a broader cross section of people to develop and share their skills, to the benefit of the business. The starting point was a clear business strategy and a discussion throughout the firm about the skills needed to take the business where it wanted to be. Business development and people skills were identified as key areas for development.

Managers were then asked to think broadly across the business and identify where those skills lay:

“If we had asked partners to identify ‘talented individuals’, we would almost exclusively have focused on newer solicitors working full-time. By instead asking partners to identify who had skills in the identified areas, we were able to nominate part-time and full-time employees, non-solicitors and solicitors, who already had great skills which they could share with others, or who would be interested to develop them further to benefit the business.”

Alison Denton, former HR Director

Mentoring, support and secondments were used to promote learning across and between different areas of the business, eg. a senior woman manager in the property team mentoring a newly qualified solicitor in relation to business development; experienced and part-time employees mentoring full-time employees in developing contacts and networking; solicitors seconded to work alongside financial advisers and estate agents to learn more about sales techniques; coaching for partners and experienced solicitors from the HR team.

As well as benefits in terms of productivity and contribution to business strategy, the firm also saw indirect benefits of employee engagement.

“At a time when retention was a key challenge for our peers, our staff turnover was low, long-standing employees reported feeling their experience was valued, and newer employees were able to quickly learn from their experience. The key message was that everyone has a valuable part to play and everyone can be part of the talent pool at different stages in their career.”

Alison Denton, former HR Director

# Managing performance through training and development

## More practical steps firms can take

- Devise a policy for the whole organisation that links managing performance to training and development (see sample below)
- Create personal development opportunities such as mentoring and shadowing of senior or specialist professional either within or outside the organisation. This can be linked to promotion and progression goals. You may find you need different kinds of skills or that the skills you need to develop lie beyond the solicitors in your organisation. Taking an inclusive approach could work in firms of all sizes – reception, paralegals, support team members all have valuable skills to offer
- Use CPD run by the Society's Update service (free seminars can also be run by the Society if a local faculty is willing to bring together a group of local firms)
- Identify other relevant training linked to equality and diversity, such as training provided by the Royal National Institute of Blind People (RNIB), Scottish Women's Aid, etc
- Identify the core training around equalities – managing diversity, customer care and other central policy strands – which all staff must attend and ensure that this is managed through induction, and refresher events for all staff

### Good practice example: equality training and development

A chamber recognised the importance of a shared analysis of equality and diversity issues both in relation to internal matters, and the way that clients and cases were managed. There was some concern about sensitive issues such as the criteria and processes that were used to allocate cases, the numbers of women, men and black and minority ethnic staff at different levels, and the consistency of line management support.

In summer 2007, they approached Equality Works, who designed and delivered two-hour, tailored workshops which were held in the evenings to minimise disruption to the working day. These sessions included an overview of issues and good practice around equality and diversity in the field and then focused on practical ways in which everyone at the chambers could promote equality through their day-to-day work.

This included considering some of the factors affecting judgment in recruitment and selection; exploring ways in which subtle discrimination might occur in performance management and case allocation; and identifying and challenging discrimination.

## Sample Managing Performance Policy

### **Supervision**

The firm believes that the process of ongoing supervision between employee and line manager is a very supportive and effective part of employee development. The frequency and nature of any supervision will be dependent upon the employee's role.

Employees should expect to receive regular supervision from their line manager, which should be a two-way process that includes:

- identifying things that are going well
- identifying things that are not going so well
- coaching
- agreeing training requirements
- forward planning, identifying development opportunities and how they can be provided

### **Appraisal**

Each employee will undertake an annual appraisal with their line manager, using the opportunity to review progress over the previous year and to clarify objectives and development requirements.

### **Staff Development**

Our staff development policy aims to ensure that all staff, whether fee earning or support, have access to the support, training and development opportunities they need; that these opportunities are fairly allocated, and take into account individuals' particular circumstances.

We are committed to recruiting and retaining the best people. As part of achieving this, we have a policy to help develop each employee, with these objectives:

- to recognise (as our clients do) that money spent on training and development is an investment (rather than a cost)
- to improve the excellent service that clients receive by ensuring that it is always consistent, professional and tailored to their needs
- to ensure that employees receive the support they need to maintain and develop their skills
- to ensure that development opportunities are fairly allocated (e.g. coaching, supervision, training, peer support, etc)

The firm will provide a number of different ways in which employees will have the opportunity to develop, and to constantly evaluate whether we are successfully developing our people.

## The business case

Employees who feel valued are not only more productive, but also more loyal and more likely to speak positively about their employer to others. Pay and benefits are not only the principal means of reward and recognition but also provide a good opportunity for firms to demonstrate their commitment to equality in a practical way. Firms with a reputation for fair reward can attract the best people and retain them for longer.

There are also legal responsibilities for employers, in particular to ensure equal pay for women and men who carry out similar work, and to make sure that benefits schemes do not indirectly discriminate against people on the grounds of their sexual orientation or marital status.

The gender pay gap continues to be a major area of discrimination, and has even increased recently, after falling slightly for several years. Potential employees who believe in equality will seek out firms that can assure them that equal pay is a reality in the firm. Even the most prestigious law practices will need to work hard to counter the effects of recent publicity, for instance over unequal bonus payments. Evidence on the pay gap in the Scottish profession can be found in the Women in the Legal Profession in Scotland study, details of which are at the end of this guidance.

Equal pay audits need to take into account factors which can often remain hidden, such as payments for out-of-hours or overtime work; payments related to length of service (especially when women, disabled and minority ethnic people are later joiners); and salaries which depend on the negotiating power of individuals.

The Equality Act 2010 includes the provision to make pay secrecy clauses unenforceable and allows claims for direct gender pay discrimination.

Caroline Carter, head of employment practice at Ashurst, noted that in the Equality Act 2010, “The gender pay gap and discriminatory pay practices of any sort are tackled head on, as clauses in employment contracts which ban employees from discussing their pay or bonuses with colleagues become unenforceable against employees who discuss these matters for the purpose of finding out whether pay rates are discriminatory.”<sup>118</sup>

“Openness about pay is one of the factors known to be associated with a narrowing of the gender pay gap so such secrecy matters. There is a correlation between transparency – making visible the impact on male/female earnings differentials of the ways in which an organisation sets rates of pay – and a lower gender pay gap. The gender pay gap in the public sector, where generally speaking, pay is more transparent, is 11.6% as compared to a private sector gap of 20.8%”.<sup>119</sup>

# Rewards and benefits

Possible risks to equality	Top performing firms will want to take action to:
<p>Basing decisions about pay and reward on informal networks, staff requests for pay rises and managerial discretion can disadvantage part-time staff, women and ethnic minority employees.</p>	<p>Formalise clear objective criteria for pay and reward, to guide managerial discretion and ensure line managers feel confident about applying them.</p>
<p>Specifically, the inconsistent use of discretion in pay and reward systems mean there may be a pay gap between women and men doing the same work.</p>	<p>Carry out an equal pay audit and rectify any anomalies.</p>
<p>Reward systems which use continuous years of service as a criterion disadvantage those who have taken career breaks, particularly women and disabled people, and constitute indirect discrimination.</p>	<p>Ensure all requirements for pay and reward can be equally met by women and men.</p>
<p>Benefits policies which include spouses can exclude same sex and/or unmarried partners and will therefore constitute indirect discrimination.</p>	<p>Make sure your policy on benefits is inclusive of all staff, taking into account sexual orientation and/or marital status.</p>
<p>Linking the achievement of formal qualifications to pay rewards can disadvantage some groups of employees and may constitute discrimination unless they are strictly relevant to performance.</p>	<p>Use criteria appropriate to the role to make pay and reward decisions.</p>
<p>Informal benefits such as social events can exclude some people, eg events held in the evening, away from home, or involving alcohol can exclude people with caring responsibilities and some people with religious beliefs, and may not be accessible.</p>	<p>Think about how to promote equality at informal company events.</p>
<p>Where support staff are not included in benefit or pay reward systems, this can have a negative impact on their morale, performance and retention. As women are likely to be over-represented amongst support staff, this can further increase the gender pay gap within firms.</p>	<p>Offer benefits and a clear pay structure across the whole firm and ensure that, within this, support staff are paid a fair wage that recognises their contribution and reduces the risk and impact of high turnover of support staff.</p>

### Good practice of using a diversity questionnaire to inform a review of benefits: Burness Paull & Williamsons

Burness Paull & Williamsons carried out its annual diversity questionnaire. This anonymous survey went out to all partners and employees to ask them, confidentially, about their gender, ethnicity, religion/belief, sexual orientation, and any disabilities or caring responsibilities. Just over half of employees responded in the first year, and this increased to 76% in the second. The HR Director attributes this increase to a combination of the survey being easier to complete this year since it was done online and the “growing acceptance amongst staff that this is the norm and that it is part of good practice in a well-run law firm”.

The firm has used the findings to inform its internal HR strategy, as well as to support tender applications. It undertook a comprehensive review of benefits, informed by a staff survey and focus groups conducted by an external company. The diversity questionnaire helped the firm understand the likely impact of the different benefits options on its workforce. For example, the findings had revealed a higher level of caring responsibilities than had been anticipated. As a result of this, the firm:

- Improved the maternity pay and extended this throughout the firm, so that seniority did not affect the package
- Provided one week out of the two weeks statutory paternity leave at full pay
- Took steps to support staff to improve their health and wellbeing by providing free health checks and subsidised gym membership

The firm also has a clear and transparent process for making decisions about promotions. There is a robust selection process for becoming an associate or a partner and decisions about pay increases are linked to overall contribution to the business. The diversity questionnaire has confirmed a gradual increase in the proportion of female partners and of employees working part-time.

## The business case

Firms that are sensitive to the changing needs of their clients are likely to be successful in winning repeat business and keeping clients in the long-term. Likewise, firms that take account of employees' changing circumstances not only retain talent and skills but also win the long-term loyalty of employees, maximising the return on their investment in recruitment, training and development. Retention is better than recruitment in so many ways: it is cheaper, more effective in delivering continuity of care for clients, creates a stable environment for colleagues, and enhances employer brand.

Much evidence points to flexible working as a major plank in supporting people whose circumstances change. For example, BT calculates gains averaging 21% in productivity for employees working flexibly. Around 16% of Scottish solicitors already have some form of flexible working (be that part-time, condensed hours, job share, etc), and this figure appears to be increasing. Firms will need to compete to attract and retain talent.

Law firms are not only competing against each other to retain good people, but are also increasingly at risk of losing people to banks, management consultancy companies and other organisations that may be their clients. The largest growth sector in the legal profession over the last few years has been in-house legal teams, offering jobs that often bring attractive packages with benefits different to those in law firms. Law firms must also see these businesses as competitors for talent.

Accenture, the global management consulting, technology services and outsourcing company, was concerned that only 74% of women returning from maternity leave were still with the company a year later. The Maternity Returners Programme was based on feedback from employees who were asked what would make a difference. It included the following:

- Half-day workshops for all women going on maternity leave, facilitated by others from the company who have been on maternity to provide practical information and the opportunity to share experiences and concerns
- A *Combining your Career and Parenthood* pack for all expectant mothers and fathers which sets out all relevant company policies
- A working parents' website and maternity returners' lunches which give the opportunity for people to network and provide peer support

Since the programme's introduction, the number of maternity returners still with the company a year after returning has risen to 90%.

See [www.diversityworksforlondon.com](http://www.diversityworksforlondon.com) for more details

# Changing circumstances

Possible risks to equality	Top performing firms will want to take action to:
<p>Failure to make reasonable adjustments means employees who become disabled while employed risk being excluded from the workplace. Employers risk damage to their reputation, are vulnerable to legal challenge and risk losing valuable employees and the associated investment in their training and development.</p>	<p>Formalise and clarify a process for making reasonable adjustments. Keep records of requests accepted and declined, with good reasons.</p>
<p>Women on maternity leave may not return; may return and then leave; may wish to return on a part-time basis.</p>	<p>Publish criteria, and agree requests for part-time or flexible working at all levels wherever possible. Consider job share, part-time working, annualised hours, compressed hours, etc.</p>
<p>Women on maternity leave can be excluded from important workplace changes and information; some even report being dismissed or made redundant while on leave.</p>	<p>Find a way to ensure employees on maternity leave are properly supported. Consider the potential benefits in terms of loyalty and reputation of offering a maternity/paternity package that goes beyond the minimum required by law.</p>
<p>Workplaces with a culture of long hours put pressure on everyone, but especially people with caring responsibilities. They increase stress, and employees experiencing stress are more likely to leave and are less productive in the workplace, take more sickness absence and disrupt client care.</p>	<p>Implement a flexible working policy and ensure opportunities are available to all employees. Provide solid reasons for accepting and rejecting requests, and keep records.</p>
<p>Employees with caring responsibilities may find it hard to ask for or claim their rights in some workplaces.</p>	<p>Agree on creating a climate that promotes respect for carers, and understands the need for emergency leave for crises and changes in circumstances.</p>
<p>Fear of stigma may prevent employees disclosing a mental health problem, a hidden disability, their sexuality or their religion in the workplace or even to their GP.</p>	<p>Agree among partners and senior managers how to promote a climate that encourages openness and reduces stigma.</p>

## Good practice of job sharing: TC Young

The Glasgow law firm TC Young began introducing job share posts about eight years ago, in response to a variety of factors, including:

- Options to deal with maternity cover
- Staff requests for reduced hours
- Varying workloads

“Sometimes law firms have seen this as a problem but we took the view that we have someone who is skilled and willing to work. So we sat down and listened to their needs and thought about what the firm needed and worked out a practical way of continuing to work together, especially if that meant simply tweaking the hours worked.”

Angie D’Andrea, Practice Manager

A total of 30% of their employees did not work full-time hours. Flexible working is not only available to women having children. The managing partner is open to considering applications for flexible working from anyone, regardless of whether or not they have caring responsibilities, and will only turn these down if there is a really good business case to do so.

Communication has been critical to making these arrangements successful and the Practice Manager has worked very closely with job share staff at the outset to identify appropriate communication methods, risks, and the allocation of responsibilities. At the outset, job share employees receive a couple of days training and the opportunity to shadow each other so that they can understand each other’s systems and approach to work.

D’Andrea feels that there have been a number of significant benefits to the business from these job share posts. Staff turnover is very low, which she believes reflects the way in which the firm has succeeded in accommodating its employees’ changing circumstances. D’Andrea also gives a number of examples of the way in which job shares have given TC Young flexibility. For example, where the firm has needed additional capacity, due to increased numbers of cases or a reduced team, those working on job shares have often, and with adequate notice, been able to provide this. The firm is in a much stronger position to plan for retirement, maternity leave, career breaks, or those leaving the firm.

Building a good reputation for flexible working and good work/life balance has helped the firm to attract high calibre applicants.

As D’Andrea explains:

“When they interview, our partners are increasingly aware that the best candidates are also looking at us and a good work/life balance is becoming particularly important to people. Whilst we may not be one of the biggest Scottish firms, our flexibility and the goodwill we have secured from our team has enabled us to punch well above our weight in the legal sector.”

## Top tips for flexible working

- Remember that caring responsibilities change in their nature – as children get older, parents have more flexibility and so working part-time is not always a permanent state
- Challenge perceptions that partners have to be full-time. It would be helpful to have more role models within firms who could demonstrate that flexible working and career progression are not mutually exclusive and it would give a real incentive to join or stay at firms
- Remember, flexible working impacts on all staff. In *Women in the Legal Profession in Scotland (2005)* and *Equality and Diversity in the Legal Profession in Scotland (2006)* some team members not on flexible working reported feeling that they had to cover extra work for colleagues who were. Flexible working has to be managed to support everyone in a team
- Remember that requests for part-time working may present opportunities for job-sharing, 'acting up' positions and trainees
- Provide opportunities for confidential one-to-one discussions about changing circumstances which may affect work
- If you have an employee support or counselling service, provide information to new employees at induction
- Provide information about flexible working, reasonable adjustments and compassionate leave to managers, and to employees at induction

## The need to introduce reasonable adjustments

Reasonable adjustments are often simple and comparatively inexpensive (the average cost is about £50, and mostly borne by the government).

**A small law firm employs a secretary who has arthritis in her hands which means she has difficulty typing. Voice activated software is installed on her computer which means she can produce accurate word processed letters and agreements quickly without having to type.**

Example from Employers' Forum on Disability at [www.businessdisabilityforum.org.uk](http://www.businessdisabilityforum.org.uk)

**The Law Society of Scotland also uses voice recognition software for some of its staff, replacing out-sourced digital dictation. Contacting the IT team at the Society will allow you to discuss the benefits of this approach.**

## Changing circumstances

William is a highly skilled draftsman who designs public areas in new office buildings. He had been working for his company for ten years when he had a climbing accident which left him severely disabled, and unable to work for 18 months.

When he returned to work, it was on a part-time basis. With the support of the access to work team and a Workstep provider, his company identified alternative ways for William to do his job and provided enhanced computer hardware and software, training and travel to work support. The total cost of the package was over £20,000, most of which was paid for by the access to work team.

As a result of the experience, the company used its knowledge of access for disabled people in its new designs, thus giving them an advantage over their competitors.

Example from the Equality and Human Rights Commission (EHRC) at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

It is easy to see how similar benefits might apply in a law firm. For example, organisational and personal experience of making reasonable adjustments in the workplace could help a law firm to improve the quality of advice it gives to client firms on their employment responsibilities.

The EHRC provides other examples of reasonable adjustments. These can be found at: [www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers](http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers)

## The business case

A positive work environment means more productive employees. It has been estimated that each year in the UK, 100 million days' productivity are lost and 200,000 people leave their jobs due to bullying and harassment.<sup>120</sup>

Firms with a reputation for positive work environments and a proactive approach to equality are likely to attract a wider pool of candidates and retain employees for longer. Employees who feel valued are likely to deliver a better standard of service to clients. Of course, employers also have a legal responsibility to protect employees from bullying and harassment in the workplace, from colleagues, customers and third parties (on grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

The Society deals, in particular, with a number of trainees every year who feel they are the subject of bullying. Whilst our team always works to examine both sides of any issues arising during a traineeship, the Society deems bullying and harassment as totally unacceptable, and reminds members that this could be the subject of a formal complaint against a solicitor under the professional codes of conduct. A level of bullying and harassment is also present in the profession overall, and the Equality and Diversity in the Legal Profession in Scotland study saw this particularly related to some of the equality groups. The Society published a further report and guidance on Preventing Bullying and Harassment in the Profession in 2011 ([www.lawscot.org.uk/about-us/equality--diversity/current-projects--research/preventing-bullying-and-harassment](http://www.lawscot.org.uk/about-us/equality--diversity/current-projects--research/preventing-bullying-and-harassment)) which explores experiences and practical approaches).

Creating a working environment free from bullying and harassment is not just about promoting equality – it is also about looking after employees' health and wellbeing, reducing their stress and improving teamwork and communication.

Preventing harassment and bullying is about:

- Creating an environment where it is impossible for bullies to survive
- Making an inclusive workplace that is comfortable and productive for everyone
- Encouraging colleagues to share their views and disagreements in a disciplined and professional way
- Having a policy that is clear and unequivocal, referenced in the equality policy, and made available to all at induction
- Demonstrating that bullying and harassment are not rewarded – in serious cases dismissal may be the only option, and it sends a powerful message

# Preventing and tackling bullying and harassment

Possible risks to equality	Top performing firms will want to take action to:
Women, minority ethnic and other employees who experience bullying and harassment can find it hard to report, especially in smaller firms or where working in less senior roles.	Appoint a senior champion that colleagues can contact informally to raise any concerns outside the line management structure.
Disabled employees are disproportionately at risk of bullying and harassment. <sup>121</sup>	Make sure managers know how to deal with harassment complaints, and act swiftly.
Homophobic bullying and harassment can have a big impact on lesbian, gay and bisexual solicitors' choice of employer.	Sign up to an award or standards scheme, eg Stonewall Champions.
Minority ethnic solicitors and other team members are more vulnerable to bullying and harassment where managers are less skilled/confident in managing performance.	Ensure managers are equipped to manage performance fairly and effectively.
Part-time employees, and people who work flexibly, can be vulnerable to bullying in workplaces with long hours culture.	Develop a 'dignity at work' policy to demonstrate your anti-bullying stance – include employees with different work patterns.
Complaints can take a very long time to resolve, and this prevents others from complaining. Delays and inaction mean bullying and harassment go unchallenged and unresolved – increasing employee turnover and sickness absence.	Build time limits into the dignity at work policy.
Perpetrators (especially if they make financially valuable contributions to the firm) do not always get punished. Often they get moved to a different location, or even promoted. Complainants often get subtly punished – for example by being moved – and this sends a message that stops others complaining.	Communicate and monitor closely the outcomes of investigations and complaints to make sure they are fair and appropriate.

## Good practice in legal firms – agreeing what is acceptable

A small high street law firm commissioned some consultancy support from Equality Works around staff development because relationships inside the firm were not good. The facilitator worked with the whole staff to discuss good communications and a positive working environment. They then produced an agreement on:

- What the office space should look and feel like – an inclusive environment
- What to do if there was a disagreement amongst colleagues
- What to do if someone felt aggrieved, bullied or harassed by a colleague
- How to challenge unacceptable remarks or ‘jokes’
- What to do if the agreement was ignored

This gave support to staff who were feeling vulnerable – especially support staff who did not feel that they were treated equally.

## Good practice in legal firms – harassment policies

Simmons & Simmons, as part of a range of initiatives to promote inclusion and diversity, has drawn up a non-harassment policy, which is published on its website at: [www.simmons-simmons.com/en/About-Us/Corporate-Responsibility/Inclusion-and-Diversity](http://www.simmons-simmons.com/en/About-Us/Corporate-Responsibility/Inclusion-and-Diversity)

The policy:

- Defines harassment
- Sets out the firm’s stance that harassment will not be tolerated
- Gives examples of behaviour that may constitute harassment
- Sets out a procedure for reporting and investigating incidents

## Practical steps all firms can take

- Set out the firm's policy on harassment and bullying. Make sure it includes references to graphic material such as pictures, calendars, emails, video clips, etc; make clear what sort of personal email usage is acceptable at work
- Include in the policy information about conduct expected at out-of-work activities (as harassment can happen between colleagues in a social setting) and consider having a policy on relationships in the office
- Ensure that all employees have information about how to raise any concerns/complaints if they need to and that people know how to get more information and support (see practical resources)
- Make sure that all lawyers and trainees are aware of the LawCare confidential freephone helpline. This is available 9am – 7.30pm, Monday to Friday, and 10am – 4pm at weekends. Call 0800 279 6869 and/or visit the website at [www.lawcare.org.uk](http://www.lawcare.org.uk) LawCare can also come to visit your firm/faculty and provide CPD (at a small fee covering only transport and materials) on bullying and harassment, stress, and other issues
- Make sure partners and other managers understand what they can do to prevent and tackle bullying and harassment:
  - Give immediate feedback on any behaviour which is not appropriate in the workplace
  - Model appropriate language and behaviour (for example, by not laughing at offensive 'jokes')
  - Be clear about how to respond to a complaint
  - Take all complaints seriously and respond swiftly

## Business case

Taking account of equality is just as important at the end of the employment relationship as at the beginning. Good endings ensure effective knowledge transfer, and provide information to prevent patterns of discrimination. Moreover, positive communications maintain reputation and relationships, and former employees can become effective referral partners. Information from employees who are leaving can help to better plan how to retain those who join and prevent costs associated with re-recruitment.

Of course law firms, like any other employers, have legal responsibilities in relation to terminating employment, selecting for redundancy, and facilitating retirement. They need to manage all these processes in a fair and transparent way.

Age discrimination is a significant risk, as a spokesperson from the law firm Eversheds points out:

“There have been a number of studies – including two benchmarking studies by Eversheds – to assess the extent of age discrimination in UK workplaces. The findings all generally concur that it is a significant problem, with entrenched stereotypes about younger and older workers pervading the working environment.”

“This situation is complicated further by the fact that the stereotypes about age discrimination are often reinforced by experience. It’s not true to say that all older workers are not fit and active, but some will be. Similarly, it’s not true to say that younger workers are likely to be less punctual, but some will be. The fact that, in some circumstances, stereotypes of older and younger workers will be self-reinforcing is going to make this legislation difficult to get to grips with at a grass-roots level.”

Equal Opportunities Review – December 2005

# Ending employment

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Poorly prepared redundancy criteria can put women, minority ethnic and older employees at a disadvantage.	Use transparent and fair criteria and apply the principles of fair recruitment and selection in any redundancy process.	A fair approach to redundancy can help maintain good employee relations during a change management process.
A poor work environment and/or bullying and harassment can increase turnover, but may remain hidden. Research shows that older, minority ethnic, lesbian and gay employees are vulnerable.	Provide an exit interview to all employees leaving the business – monitor and take action if patterns are revealed. See also – Preventing and tackling bullying and harassment.	High turnover is expensive and re-recruitment can be costly, especially for small firms. A harassment-free environment increases productivity.
Employers cannot force employees to retire or set a retirement age unless it can be objectively justified.	Have a flexible retirement policy which includes workplace discussions or appraisals to support individual planning and inform workforce planning. Record the outcomes of these discussions.	Good succession planning benefits individuals and the business – maximising opportunities for knowledge transfer, development and minimising risks associated with key people leaving.

## Good practice at BT – a flexible approach to age and retirement

Age has been part of BT's equality & diversity policy & strategy for a number of years and it is seen as a vital part of creating a customer-focused business.

To provide top-level commitment, they have an Age Champion – a senior manager who ensures age diversity issues are taken seriously – and the organisation's values on age are put into practice. They also regularly monitor their age profile and have taken measures to address the decline in the number of workers over the age of 53.

Recently, BT introduced NewStart, which aims to challenge people's expectations about retiring early. As a consequence, it is expected that people will remain with the company longer and this will have a positive effect on the company's age profile. Flexible options have been developed that provide the mechanisms by which people can retire gradually for the first time, as part of a career/life planning concept. The company's options support the concept of a decade of retirement.

The options available currently include:

- Wind Down – part-time working, job share
- Step Down – lower 'responsible' job at lower grade
- Time Out – phased sabbaticals
- Ease Down – reduction in hours or responsibility
- Helping Hands – secondments

BT has started to see a flattening out of age distribution, with an increase in the proportion of over 50s from 13% to 24% of the workforce. Concerns that the flexible retirement policy would raise unrealistic expectations from employees have so far been unfounded – 70% of BT's workforce already works flexibly and managing flexibility in retirement is seen as no more problematic.

**Source: Employers' Forum on Age at [www.enei.org.uk](http://www.enei.org.uk)**

## Practical steps all firms can take

- Check if any criteria used to select for redundancy could disadvantage any groups, eg a last-in-first-out policy may disadvantage women, younger people and minority ethnic employees who are more likely to have joined the profession more recently. Criteria which emphasise flexibility or potential for future contribution to the business can disadvantage older employees
- When employees are retiring, consider the business benefits of a flexible approach as in the good practice example above, and discuss the possible options with employees ahead of time
- Plan ahead – use succession planning to identify the skills you need to include in your training plan and the knowledge you need to retain within the business, when people leave. This might create opportunities for experienced members of the team to act as mentors or facilitate more formal learning and development for others

# Part 3

## Delivering an equal and accessible service

This part of the guide is in three sections.

The first section is about access – how clients find out about you, find your office, and access your services; the second is about communication and the client experience; the third part is about procurement and partnerships, which are increasingly important aspects of successful service delivery.

In this section we will consider how equality and diversity links to:

- a) How prospective clients find out about your firm (and whether or not they decide to approach you)
- b) How they get to you (whether in person, on the internet, by phone, or through referrals or networks)
- c) Whether they are able to access your services when they do

Many of the issues raised in this section will be relevant both to individual clients and to organisational clients (since your contact with organisations will be through the individuals they employ). Since access to legal services by larger and/or public sector clients is increasingly regulated through their procurement processes, we will consider the particular equality issues in procurement in the section on Procurement.

## The business case

From initial enquiry to decision to appoint or recommend, law firms recognise that reputation and information are key to client decisions. Firms that can communicate their commitment to equality to a range of potential clients can secure business and generate recommendations from a wider pool of individual and corporate clients.

Firms that can confidently communicate the services they offer, in a way that is easily accessible to their potential clients, will attract business and build their reputation in the long-term. Since clients have a variety of requirements and preferences, so marketing, information and initial communications should also be varied and tailored to their needs. Top-performing firms recognise that effective marketing, good physical access and readiness to make adjustments are key.

Getting it right for clients with particular needs does not make it wrong for others – in fact it generally improves services all round, for example:

- Making a public commitment to equality in marketing material or on websites is important for clients looking for a solicitor to support them with a discrimination complaint. It is an important message for all clients but also for corporate clients who are bound by the public duty to promote equality and any client who takes equality seriously. Firms that take equality seriously, and have policies in place in relation to service delivery as well as employment, are more likely to meet their procurement criteria
- Firms with good physical access to premises can secure the business and confidence of disabled clients with a physical or sensory impairment. This will also improve access for some older people, and people with caring responsibilities
- Recommendations from satisfied customers from smaller or less visible communities, eg. disabled people, lesbian, gay and bisexual people, minority ethnic people, can help to build your reputation with other potential clients from a variety of backgrounds. Reputation will also be an important factor for clients with specific needs and concerns, for example, clients who have experienced domestic violence, or are looking for immigration advice

- Offering a variety of methods and formats for communication means that physically disabled clients can request the reasonable adjustments they need; it also means that people with a learning disability, people who experience mental ill health, or people who use an advocate or interpreter, can also feel confident to approach your firm

Of course, law firms also have responsibilities under the Equality Act 2010 to ensure they do not discriminate in the way they provide their services. This means law firms must ensure that they do not provide a less favourable service (including less timely or of lesser quality) to people on account of their age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and that they make reasonable adjustments for disabled people, including those with mental health problems or learning disabilities.

## (a) How do prospective clients find out about your firm (and decide whether or not to approach you)?

Effective marketing is accessible to all your potential customers and provides a range of different routes for communication. There can be many factors influencing choice of firm, including fear, prior experience and the welcome and information supplied at the first enquiry.

Equality risk	Top performing firms will want to:	Overall business benefits
Your commitment to equality is invisible, or only implicit, in information and marketing material so clients who value equality go elsewhere.	<p>Include a statement of their commitment to equality in promotional material, introductory information and on websites.</p> <p>Use a variety of images in promotional material which reflect the diversity of potential clients.</p> <p>Include information about physical access and reasonable adjustments they can offer (see section c, page 76).</p> <p>Consider working towards an equality kitemark, such as Stonewall, RNIB, Action on Hearing Loss, etc.</p>	<p>Both individual clients and corporate clients who value equality are more likely to choose a firm with a public commitment to equality.</p> <p>This could be particularly important for lesbian, gay and bisexual clients, who may not see solicitors as gay-friendly and for corporate clients subject to the public duty to promote equality.</p> <p>This will enable you to benchmark yourselves against others and make improvement plans.</p>

Equality risk	Top performing firms will want to:	Overall business benefits
Your approach to advertising and marketing does not reflect your diverse potential client base.	Adopt a marketing strategy which includes a variety of media (including specialist media, eg. the Pink Pages or Eastern Eye Scotland), communications channels (online and offline), including free sources of information such as directories, and develop links with potential referral partners (eg housing department, local community groups) to reach all potential clients.	Building local links can have reputational benefits beyond securing individual clients.
Being unprepared to meet requests for reasonable adjustments means disabled clients cannot access information to choose you and can damage your reputation, and is of course illegal.	Ensure all staff have equality training and are prepared to make reasonable adjustments on request, eg. in responding to a customer who uses TYPETALK or an advocate, providing information in large print, making a home visit. Remember, "reasonable adjustment" (although specific to disability within the Equality Act 2010) can be a useful concept for thinking about putting the needs of all clients first.	Flexibility is key to client satisfaction and well-prepared employees maintain your professional reputation.
Clients who are intimidated by their first contact may not return.	Ensure initial enquiries can be made in ways that suit disabled, older, younger clients or clients on low incomes, or those unused to using solicitors. Provide introductory information in plain English, and include a 'talk to us' first option.	Welcomed clients are more likely to be satisfied clients.

Equality risk	Top performing firms will want to:	Overall business benefits
<p>Not having upfront information about costs and legal aid in plain English can mean people on low incomes and people for whom English is a second or other language choose another firm or do not access legal services at all.</p>	<p>Set out their approach to legal aid and costs in plain English.</p> <p>Get registered on the Scottish Legal Aid Board register to publicise their commitment.</p>	<p>Clear information about costs is helpful to all clients. A commitment to equality for clients who would not otherwise have the financial means sends an important message to all clients who value equality.</p>

## Good practice example: marketing which targets equality groups

Donald Skinner-Reid at Mowat Hall Dick in Edinburgh is one of the few openly gay solicitors in Scotland. The firm has placed a number of adverts in ScotsGay magazine in order to attract new gay clients. Donald explained that the adverts, which feature the caption “Six Reasons Why YOU Need a Gay Solicitor”, have paid for themselves several times over and he is not aware that the firm has lost any of its heterosexual clients through this marketing initiative.

Donald provides a comfortable and confidential service, including reception staff who are extremely welcoming to everyone; respect for all relationships; and a recognition that gay people will have some different needs. He reports that some gay couples travel the length of the country to come and instruct him on a range of subjects, and that the name change registration service he offers also draws trans people from the whole of Scotland. Where lesbian, gay, bisexual or trans clients approach him with legal needs beyond the firm’s remit and expertise, Donald will refer them to other firms where he is confident they will be welcomed and provided with a quality service.

The firm’s website also offers free downloadable information aimed at and/or inclusive of gay people, including leaflets on civil partnerships and making a will.

**See [www.scotsgay.co.uk](http://www.scotsgay.co.uk) and [www.mhdlaw.co.uk](http://www.mhdlaw.co.uk)**

**(b) How do clients get to you (whether in person, on the internet, by phone, or through referrals or networks)?**

Top-performing firms know that communication and flexibility are essential. Offering a range of options for clients to reach you is clearly good for business, but firms need to ensure that these work well for everyone.

Equality risk	Top performing firms will want to:	Overall business benefits
<p>Your premises are not physically accessible for disabled clients.</p>	<p>Conduct an access audit and take action where necessary.</p> <p>Provide information about public transport and car parking too.</p> <p>Consider offering services from another location (perhaps a 'walk in' once a week) or do home visits.</p>	<p>Good access benefits all clients, eg step-free access benefits people with children in pushchairs and older people as well as people with a physical disability.</p>
<p>Poor telephone work can create barriers for some clients, eg. assumptions about gender in relation to trans clients, deaf clients using Tynetalk, or who have English as a second or additional language.</p>	<p>Equip frontline staff with information and training to meet the needs of their diverse customers on the phone and face-to-face.</p>	<p>Excellent communication benefits all clients, including clients who use advocates to call on their behalf and potential clients making an initial enquiry – first impressions count.</p>
<p>Initial information in leaflets, letters and websites may not be accessible to people who are visually impaired, people who have a learning disability or people who have English as a second or additional language.</p>	<p>Conduct an accessibility review of information and take action where possible.</p>	<p>Meeting requests for reasonable adjustments to information is a legal requirement – accessible information is good practice for all clients.</p>
<p>Opening hours do not allow those in full-time employment to access solicitors.</p>	<p>Look at whether this is an issue for clients and identify if there is a business opportunity (for example, it is estimated that 70% of the population do not have a current will, finding time to go to a solicitor is seen as one barrier). Adjust their opening hours accordingly.</p>	<p>There is a chance to capture new business and compete more effectively, and it may also suit your staff (for example, someone who may wish to start early to offer pre-work appointments but finish early to collect children from school).</p>
<p>Potential referral agencies are unable to recommend your firm as providing a high quality service to their clients due to insufficient information or confidence.</p>	<p>Develop good relationships and build a reputation for an effective, sensitive service, with key local referral agencies.</p>	<p>Positive relationships with other agencies are valuable not only in terms of marketing but may reveal other business opportunities and give you valuable feedback.</p>

## Good practice example: Caesar & Howie Senior Issues website

Caesar & Howie launched the Senior Issues website in order to improve the service it offers older people and to develop its reputation as a older people's specialist. It identified powers of attorney, wills, and equity release as three key legal issues for this age group and produced a range of relevant resources about these and a number of other issues, which can be downloaded from the site. Although the firm funds and manages the site itself, it has worked in partnership with a number of other key players to win their support for the project. These have included firms and charities providing related services and the Office of the Public Guardian, which was keen to be involved in order to help promote the take-up of power of attorney.

Caesar & Howie has also taken the following steps to make its services more accessible to older people:

- Staff have received a deal of additional training on specific legal issues for older people and also on 'softer skills', such as working with bereavement, facilitated by Cruse counsellors
- The 'buddy rule' invites older people to bring a friend along to support them throughout the process
- They offer local home visits
- They are starting to offer information nights for people over 55

David Borrowman, Managing Partner at the firm, explains that the site has generated a huge amount of business. Where the firm was doing hardly any equity release work two years ago, it is now picking up around 50 cases a month. He reports that there was some debate initially about the wisdom of 'giving away' free legal advice on the website but he points out that:

"Information is so readily available now. If you are the person giving it, we believe that people are more likely to come back to you if and when they need assistance."

He also explains that where, in the past, there was perhaps a sense amongst lawyers that it was better if your client didn't know too much at the outset, Caesar & Howie believes that openness is the best policy:

"We find that a more informed client is actually a better client and that we get on better with those who are already genned up about their rights, what they need and what they want to get."

**See [www.seniorissues.co.uk](http://www.seniorissues.co.uk) for further information**

## (c) Are clients able to access the services you offer?

Good client access to your buildings, services, and information is essential to good client relationships. Taking steps to check and remove barriers will improve services for all and maintain your professional reputation.

Equality risk	Top performing firms will want to:	Overall business benefits
Information is provided in a format which is inaccessible for disabled clients.	Have a system in place to make reasonable adjustments for disabled clients on request and to ask all clients about preferred means of communication and record for future reference.	Effective communication prevents delays and increases client satisfaction.
Equipment used to promote equality (such as loop systems or Tynetalk) that is not well maintained or where staff do not know how to use it undermines client confidence.	Equip frontline staff with information and training to meet the needs of their diverse customers, eg knowing how to use a loop system and Minicom, source a British Sign Language (BSL) or other interpreter.	Knowledgeable, confident frontline staff are well placed to build your reputation for professionalism.
Fixed or inflexible appointment times can be a barrier for people with childcare responsibilities, on low incomes, working shifts, people who use an interpreter or an advocate, or are learning disabled.	Offer flexible appointment times, durations and locations where possible.  Make sure clients get advance notice of delays and over-running.	Flexible appointment systems can mean fewer cancellations and quicker progress.

Equality risk	Top performing firms will want to:	Overall business benefits
<p>The types of services you offer are not well-matched with the needs of your potential client base and advice may not be wholly appropriate.</p>	<p>Get to know the local community, trends and population changes and tailor services accordingly. Use this local knowledge to tailor training for new employees.</p> <p>Log issues which are of particular interest, and make links with relevant local groups, eg if a review reveals a high number of enquiries in relation to domestic violence, consider training from a local women's centre.</p> <p>Log enquiries for services not currently provided, eg in relation to immigration or mental health, and build up referral networks.</p>	<p>Good marketing information can reveal new business opportunities.</p>

Further advice, information and examples are provided in a supplement to this guidance called *Ensuring fairness, creating more accessible services* – this can also be downloaded from our website: [www.lawscot.org.uk/publications](http://www.lawscot.org.uk/publications)

## Good practice example: Anderson Strathern ensuring accessibility

Anderson Strathern's website conforms to W3C accessible guidelines and they provide a guide on Access and Facilities for Disabled Staff and Visitors. The guide sets out full details of its Edinburgh head office's accessibility, including the availability of toilets and a named contact who can provide further information if required.

It also sets out a number of other steps the firm has taken to ensure that all clients are able to make full use of their services, including:

- A hearing loop system in the main office
- Provision of British Sign Language interpreters free of charge (notice required)
- Communication by fax, email, text or through large print documents
- Staff who are happy to talk through the firm's magazine, brochures and legal bulletins with those who have a visual impairment
- Two solicitors have received training from the Royal National Institute of Blind People
- Home visits or meetings in other suitable alternative venues by arrangement

In this section we will consider how equality and diversity link to:

- a) Hearing and assessing clients' needs
- b) Communicating legal information and advice
- c) Customer satisfaction: gathering and responding to feedback

## The business case

Law firms understand that satisfied clients generate repeat business and further recommendations. Good firms also appreciate that some clients will need to do things differently in order to have a positive experience of the firm and to stand the best chance of getting a fair outcome from the legal system. Firms that build a reputation for satisfying diverse needs can secure custom, loyalty and recommendations from a wider pool of clients.

Some firms have worked hard to develop their reputation with a particular equality group. As the good practice examples in this section show, identifying gaps in the market and developing a specialist service can help to grow your business. Even if this is not an appropriate step for your firm, it is still important to make sure that your firm is communicating effectively with all of its clients. Lawyers and support staff who can listen well and explain the law clearly to children, people for whom English is an additional language, or people with mental health problems, are more likely to communicate well with all of their clients.

Effective two-way communication is the key to good service provision and a representative at the Law Society of Scotland identified communication problems as the root of most of the client complaints received by the Society. Furthermore, law firms are themselves service providers under the law and must ensure that they do not provide a less favourable service (including less timely or of lesser quality) to people on account of their age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and that they make reasonable adjustments for disabled people, including those with mental health problems or learning disabilities.

It is worth noting that ensuring the client understands the information and advice being provided is part of the solicitors' professional codes of conduct, and that this relates to all forms of communication and linked equality issues. For example, issuing terms of business (as required under practice rules) to a client in written English when the client cannot read English could be deemed a breach of the professional code.

A large number of complaints from clients which are managed by the Society, or now the Scottish Legal Complaints Commission, relate to differences in the expectations of clients. Discussing the client's preferred form of communication and how frequent communication will be is one way of effectively managing expectations at the start of a piece of work.

## (a) Hearing and assessing clients' needs

An advice provider described a case which had come to her agency, concerning a group of Polish workers who had been unfairly dismissed. They had been told by a lawyer that they could not go to a tribunal as they had been employed for less than a year, and the minimum term of employment for unfair dismissal cases is one year. The lawyer appeared not to have considered any racial discrimination potential within the dismissal and this was important as discrimination cases at tribunal can be taken regardless of length of employment. This highlights the importance of solicitors understanding and looking out for potential discrimination and other needs linked to their clients' social identity.

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Where time is money; vulnerable clients and those with different needs may feel as though they have not been listened to or understood. This may result in complaints and reputation problems.	Make sure lawyers have time, confidence and support to ask about and listen effectively to all clients' needs, and build trust.	Better assessment of clients' needs means that better legal advice and representation can be given, leading to improved outcomes and reputation.
Aspects of a client's situation linked to their social identity may be missed and poor legal advice given, eg identifying that an attack is religiously motivated.	Ensure all staff are aware of equality & diversity issues and understand discrimination.	This awareness leads to an increased likelihood of winning cases.
The duty of care to clients is not met when their needs are missed and appropriate referrals for support and/or input from other legal specialists are not made.	Identify other sources of legal/ social support for clients from different equality groups locally.	Building strong referral relationships with other law firms and advice/ support agencies can generate new referrals to the business.
Mental health advocates are not used or are used as a substitute for lawyers taking time to understand clients' needs themselves.	Ensure lawyers are clear about when and how advocates should be appointed.	Appropriately used advocates should help cases run more efficiently and improve likelihood of success.

# Communication and client experience

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Clients who do not speak good English are not accurately understood or their needs are missed.	<p>Ensure lawyers are clear about when and how interpreters can be accessed.</p> <p>Draw up a policy for the firm's relationships with interpreters and advocates.</p>	Clients eligible for legal aid can access legal aid interpreters so this service is free. Advertising that you have links to interpreters should generate new clients.
Lack of consideration leads to missed court appearances and subsequent delays.	<p>Consider how to take account of clients' diverse needs with reference to court appearances.</p> <p>Advocate to make sure these needs are met in relation to court reports and other referral documents, with the client's permission.</p>	Clients eligible for legal aid can access legal aid interpreters so this service is free. Advertising that you have links to interpreters should generate new clients.

Further advice, information and examples are provided in a supplement to this guidance called *Ensuring fairness, creating more accessible services* – this can also be downloaded from our website: [www.lawscot.org.uk/publications](http://www.lawscot.org.uk/publications)

## Tips for solicitors working with those who have experienced domestic violence

- Try to understand domestic violence as an ongoing experience – often emotional, psychological, financial and physical – not just a series of incidents
- Confidentiality and safety must be paramount, eg consider impact if victim's new address is read out in court
- People may have concerns about being seen accessing a solicitor, or how they will explain their absence
- Sometimes women and men will just want to talk through their options and not feel pressured into taking a particular legal route at this stage
- Take fears and concerns seriously, especially where children and child contact arrangements are involved

See [www.scottishwomensaid.org.uk](http://www.scottishwomensaid.org.uk) for more information

### Good practice example: Balfour+Manson: working with disabled and/or older clients

Balfour+Manson has built a strong reputation for working supportively and effectively with clients who are disabled, especially people with brain damage who are seeking litigation, and older people, in particular on wills, inheritance tax planning, executry and trust administration.

Elaine Motion, head of the litigation team, explains that they do this by:

- Being there and supporting people whenever they want you
- Knowing experts and getting support from them
- Taking time to communicate on a one-to-one level without being condescending
- Choosing counsel and other experts who have the same skills and values to ensure consistency

Balfour+Manson also employs a social worker who primarily works with older people in residential care cases but also shares expertise with the litigation team. This additional service means that clients get a 'one-stop-shop' approach to their social care and legal needs, whilst lawyers benefit from her knowledge and support in complex cases.

Additional time spent by lawyers supporting and communicating with clients who have complex needs is time recorded. Motion explains: "We will pick up an additional fee where we win but we are very philosophical about it if we don't. Similarly, the social work service is usually claimed back through fees and, where it is not, is viewed as adding value through reputation and increased internal knowledge."

**See [www.balfour-manson.co.uk](http://www.balfour-manson.co.uk) for details**

## (b) Communicating legal information and advice

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Disabled clients do not have access to the information they need.	Review the accessibility of information.	Better informed clients make better clients, and disabled clients have a right to information concerning them and their case.
Legal and other jargon may be particularly inaccessible to clients who are not familiar with the UK context, to those with mental health problems, or to children.	Take time to explain words or concepts to individuals and consider ways of providing this information in other formats, eg information sheets, website.	Better informed clients make better clients and firms that build a reputation for providing clear accessible information should benefit from recommendations.
Clients miss out on information about their cases where this is provided in an inaccessible format.	Check with clients at the outset how they want to receive legal advice and information about progress of case.	Cases should run more efficiently, with fewer missed appointments, delays in returning forms, etc.
Some people may find it difficult to understand a lot of complex information at once.	Consider simple solutions, such as encouraging clients to bring a 'buddy' with them or providing a written summary as follow-up.	Satisfied clients bring many benefits, including more efficient cases, better reputation, etc.
Some legal concepts and technical vocabulary may be hard to translate into BSL.	Use interpreters experienced in operating in a legal context and checking client understanding.	A solicitor can be sure they have understood their instructions, avoiding an expectation gap later.

### Good practice: communicating with the Polish community

The central Scotland law group Caesar & Howie set up Kupdom.co.uk in October 2007. Kupdom is a Polish language website, which aims to demystify the housebuying process for the estimated 80,000 Polish immigrants who now live in Scotland, and then to steer prospective housebuyers into using Caesar & Howie for conveyancing. It is being widely promoted in the UK Polish-language media.

David Borrowman, the firm's Managing Partner, explains that they receive around 30 contacts from Polish people a month, of which around a dozen result in house purchases, though many of their Polish clients are taking out shared equity mortgages, for which there is a very long lead-in time. He feels that current reduced house prices seem to be encouraging more Polish buyers, who are not looking to sell UK properties and often have significant cash deposits. They employ one full-time Polish speaker and have another member of the team who happens to speak Polish.

Key learning points from the project to date include:

- There is less need for translation and interpretation than they had originally anticipated. Nine out of ten of their Polish clients only need the occasional letter translated or the odd legal term explained in Polish
- Word of mouth has been very powerful and Polish people are now approaching the firm for a range of other services, such as divorces
- The website has attracted clients from beyond their usual geographical remit, including England, where they have been identifying referral networks

**[www.kupdom.co.uk](http://www.kupdom.co.uk) or [www.caesar-howie.co.uk](http://www.caesar-howie.co.uk)**

The 24-hour, publicly funded Public Defence Solicitors' Office has appointed a Polish-English criminal paralegal to act as the first point of contact for Polish people throughout Scotland.

Offering services through criminal legal aid to those who are eligible, the paralegal provides advice on criminal law and procedure, working closely with the PDSO solicitors and providing an interpreting and translating service for Polish speakers. She is based in the PDSO Edinburgh office, and also travels across Scotland to the five other PDSO offices.

PDSO has produced handy pocket-sized cards in Polish that give contact details and a summary of rights if detained by police. It has a Polish section on its website.

**[www.pdso.org.uk](http://www.pdso.org.uk)**

## Tips for solicitors working with children and young people

- Be flexible: children may benefit more from a series of short meetings, rather than one long interview
- Be imaginative: one solicitor told us how she had used greetings cards to keep a young client informed about his case – the child had told her that he found receiving official letters from her daunting
- Be patient: sometimes young clients seem to ‘disappear for a bit’ or miss appointments
- Be forward-thinking: a child may be 12 years old at the outset of a personal injury claim and 15 at the end of it
- Be clear: “If they don’t understand, it’s because you haven’t explained it to them properly.”
- Be inclusive: if a child is involved in the case, get them involved from the start (easy to overlook them if the case is not a family law case)
- Be client-focused and remember who your client is: “The voice of the child is very quiet: lawyers function as a megaphone for this voice.”

**Tips drawn from consultation with the Scottish Child Law Centre**

## c) Customer satisfaction: gathering and responding to feedback

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Vulnerable clients may not know what service to expect from a solicitor.	Draw up a statement setting out what can (and can’t) be done; and what clients should expect from the firm in terms of values, treatment, and communication.	Clients will be better informed to make the most efficient use of your time. Client feedback should be more constructive.
Dissatisfied clients do not complain because they do not know how to or feel their complaints will not be taken seriously.	Ensure a robust and accessible complaints system and that complaints (and positive feedback) are monitored and improvements made where possible.	The firm can develop its service in response to client feedback and avoid the risk of developing a bad reputation by word of mouth.

Possible risks to equality	Top performing firms will want to take action to:	General business benefits
Client feedback cannot be linked to monitoring data about clients therefore it is hard to know whether particular groups are having common experiences of services.	<p>Complete ethnicity monitoring forms with legal aid clients.</p> <p>Consider creating a simple form to collect information about the social identity of clients.</p> <p>This information could be sought at the point of instruction or as part of gathering feedback.</p> <p>Ask unapologetically for monitoring information. SLAB research shows that people are much more relaxed about being asked for information about their ethnicity than solicitors think they will be.</p>	At firm and national level, a clearer picture can be built of who is using solicitors' services and whether particular groups are having common experiences in doing so. Services can be then promoted and/or improved accordingly.

## Good practice in law firms: preventing and responding to complaints

Professor Robert Rennie is the designated Client Relations Partner at Harper Macleod and has sat on the Society's Complaints Committee.

In his experience, the majority of complaints levelled at solicitors are a result of poor communication:

*"As a profession, we tend to focus on getting the job done; it is equally important to let clients know you are getting the job done and ensure they understand what is happening."*

Managing client expectations and being frank and honest at the earliest opportunity are also crucial to preventing complaints.

He advises that, in handling complaints, we need to remember that clients are diverse and different clients will require different treatment to ensure that their concerns are dealt with fairly and effectively. He feels that some firms move too quickly to stereotype complainants and their motivation for complaining. It is vital to treat all complaints properly and respond point-by-point.

At Harper Macleod, clients are told about the complaints procedure in their letter of engagement and the firm has a strictly enforced protocol that any member of staff who receives even an inkling of a complaint should bring it to the immediate attention of the client relations partner. This ensures that any complaints are responded to at the earliest opportunity; that they are handled fairly by someone who is not emotionally involved in the case; and that they can be monitored across the firm.

## The business case

Public bodies are subject to the public sector duty to promote equality on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and these duties extend to their procurement activities.

**“Where a listed authority is carrying out a public procurement exercise, it must have due regard to whether its award criteria should include equality considerations which will help it to better perform the equality duty.”**

From: EHRC Scotland (2012) Essential guide to the public sector equality duty: a guide to public authorities (Scotland)  
[www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities](http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities)

Not-for-profit organisations are increasingly ensuring their suppliers meet certain minimum standards in relation to equality. To work for these bodies, or on projects they fund, solicitors may well need to prove they are tackling equality issues.

Increasingly, this will affect all types of legal practice. In-house legal teams may be involved in setting the equality standards for procuring further specialist legal assistance in certain cases. Larger firms may deal directly with local authorities or NHS trusts. Smaller firms may provide advice to community projects or small charities that, because they are centrally funded, will also be required to take these issues into account.

In relation to promoting equality through procurement, Harriet Harman explains what the UK Government intends:

**“Spending public money is a public function, and the equality duties apply to the public function. That way, public bodies can say: ‘If you want to do business with the public sector, you need to tell us what your pay gap is. How many disabled people are you employing? What is the percentage of black and Asian people in your workforce? Then, if a number of companies are equally qualified for that contract, the authority, in its duty to promote equality, will pick the one doing best on equality.”**

Equal Opportunities Review, August 2008

Although not bound by the duties, increasing numbers of private companies, especially American companies, are seeking to influence their contractors. As the Head of HR at Burness Paull explains: "Increasingly, clients expect your approach to diversity to mirror theirs."

## Good practice example: diversity bonus for legal firms

IT giant Microsoft is offering its legal firms a 2% bonus if they hit diversity targets. Firms can opt for one of two ways of measuring their progress on diversity. They will get the bonus if they achieve a 2% increase in the diversity of their teams working for Microsoft or if they achieve a 0.5% increase in the diversity of the firm as a whole. Microsoft commented:

"Diversity in our legal teams is a business necessity... Microsoft is not attempting to criticise the efforts of the legal profession around diversity. We see this programme as an evolution of the many efforts that have come before us to drive for lasting long-term success and ensuring we see greater progress as a result."

Equal Opportunities Review September 2008 (pg 3)

"Microsoft has gone as far as dropping a UK supplier because it failed to meet Microsoft's standards on employee diversity."

Financial Times (24 03 07)

"Similarly, Walmart is demanding that its legal advisers employ women and ethnic minority people in senior posts."

Financial Times (21 02 07)

## Evidencing your firm's commitment to equality and diversity

Firms are increasingly being required to include some or all of the following information in tenders they submit:

- Equality and diversity policy
- Workforce monitoring information, in particular demonstrating the breakdown of staff by gender, ethnicity, disability, etc at different levels of the firm
- Information about their recruitment practices, including where and how posts are advertised
- Details of any grievances or tribunal claims

In some situations, a firm's evidence relating to equality and diversity will be a competitive advantage in bidding. In some parts of local government, the equality and diversity factors will be an absolute requirement; in others it may well be the deciding factor between two very similar bids.

Partnerships with campaigning organisations or equality specialists may also be a good way of attracting new business, improving services to clients, and increasing learning.

## Good practice in partnerships: Maclay Murray and Spens

Stonewall Scotland and the Scottish Inter Faith Council received funding from the Department of Trade and Industry/Department for Communities and Local Government for an initiative to help employers to audit and improve their capacity to implement the Employment Equality Regulations 2003 in the workplace. The regulations outlaw discrimination around both sexual orientation and religion or belief in employment and the project aimed to explore tensions between these strands, whilst demonstrating the common cause between faith communities and the lesbian and gay community in tackling workplace discrimination.

As part of the project's programme of learning and development for employers, employment law specialists Maclay Murray and Spens facilitated four advanced training events. These sessions used a 'mock tribunal' setting to explore a specially designed scenario in which tensions between sexual orientation and religion/belief were apparent. Participants were able to interact with the process, asking lawyers direct questions about the legislation and procedures and reflecting on their own roles and responses, before reaching a decision prior to the tribunal judgment.

Stonewall Scotland reported that the partnership with MMS gave weight to the training, due to its legal expertise, and provided a marketing opportunity for the firm. Amanda Jones, a partner at MMS and an accredited employment and discrimination law specialist, said: "We were delighted to be asked to get involved with the project. Working so closely with Stonewall Scotland and the Scottish Inter Faith Council provided us with the opportunity to improve our own insight into discrimination on the grounds of sexual orientation and religion or belief, in particular, any areas of conflict which may exist between the two. Our involvement has helped further increase our profile as leaders in the field of discrimination, especially in relation to the newer strands."

**Further information at:**

**[www.stonewallscotland.org.uk](http://www.stonewallscotland.org.uk) and [www.mms.co.uk/Knowledge](http://www.mms.co.uk/Knowledge)**

## Reviewing your accessibility

### Commitment

Check that your commitment to equalities is clear. Provide a statement, which is included in promotional material, introductory information, and on websites.

Consider working towards a communications kitemark, such as Action on Hearing Loss, Louder than Words, or RNIB Seeing it Right, to demonstrate your commitment and to benchmark yourself against other organisations.

### Marketing

Adopt a marketing strategy designed to reach all your potential clients which includes:

- A variety of images which reflect the diversity of your client base
- A variety of media (including specialist media such as the Pink Pages, Diverse Britain, etc)
- Communication channels (online and offline, websites, free advertising such as local directories)
- Links with potential referral partners (eg housing departments, local community groups)
- Building a reputation for delivering an effective and sensitive service

### Physical access

Conduct an audit to make sure premises are accessible to disabled people, and that reasonable adjustments are made wherever necessary. Consider delivering services from different locations, and making home visits.

Make information about access, including public transport and parking, available in advance.

Have a system in place for offering alternatives, and for making reasonable adjustments on request, and for recording clients' preferred means of communication.

### Accessibility of legal information

Conduct an accessibility review to identify the different ways in which you can or could provide legal information to your current and potential clients and consider whether there are any ways in which you could improve this.

# A summary of practical steps

## Communications

You might find it helpful to work through the list of equality groups, thinking about the types of communication needs that might arise and how you would respond, eg what communication methods you could offer to a deaf client. You may find that there is overlap between the different groups and that some of the methods of communication may be attractive to other clients. For example, a deaf client may prefer to be updated by text message. This may also be attractive to younger clients and may be a service that others would find convenient. A range of web services to deliver text messages allow this to be done for less than the cost of a phone call or postage stamp – so could also help improve business efficiency.

## Formats, languages and technologies

Explain that you can offer information in alternative formats and languages on request. All staff need to be prepared to make reasonable adjustments, and to know how to do this, and to have the necessary equipment and training to use it.

This includes facilities for: people with hearing impairments such as Tynetalk, Minicom, loop, texting; people with visual impairment, such as large print, Braille transcription, reading services; and people who may need support with material written in English.

## Channels

This involves thinking about the different channels that clients use to communicate with you – face-to-face, on the telephone, by letter – and the support you can offer in each of these situations. For instance, you might encourage clients to bring a 'buddy' with them, or offer to provide a plain English written summary as a follow-up to a meeting. You might also consider changing your opening hours, your appointments system, or offering a 'walk-in' facility or home visits.

## Initial enquiries

Offer a variety of ways to contact the firm for initial information.

Ensure initial enquiries can be made in a way that suits disabled, older, younger clients or clients on low incomes.

Provide introductory information in plain English.

Include an option to 'talk to us' first.

# A summary of practical steps

## Key information

Think about the information that all clients and potential clients need, and consider ways of making it even more accessible.

Draw up a statement describing your services, explaining what can and cannot be done, and making clear what clients can expect from you in terms of values, treatment, and communication.

Identify existing resources or develop your own to explain legal terms and rights to clients in plain English and/or other languages or formats. If your firm has a website, you could offer these as downloads or set up links to external resources.

Review or set up a robust and accessible complaints system, and be prepared to act as a result.

Collect equality monitoring information as a matter of course.

Legal aid costs: set out your approach to legal aid and costs in plain English.

Get registered on the Scottish Legal Aid Board register to publicise your commitment.

## Interpreters, translators, advocates

- Develop a policy about the use of interpreters and advocates, for those who speak English as an additional language and disabled people, including those with learning disabilities or mental health problems. The policy should cover how and when interpreters and advocates are appointed; their precise role; the funding arrangements
- Remember that clients' interpreting and translating needs may not be all or nothing: do not assume a client can understand all the information you give them just because their conversational English is of a reasonable standard – for example, women from some ethnic backgrounds may be more likely to have conversational English but not be able to read and write in English OR their own language
- However, take time to plan whether and when interpreters are needed. Caesar & Howie found that many of its Polish clients need only occasional support, from a Polish-English speaker. Since translation can be expensive, it is generally better only to translate materials where there is a clear need to do so (eg by a particular client or a community you wish to target with information)
- The Society has worked with others to create a useful standard on translation within a court setting, which will be of use to solicitors in general (whether in office-based work or court). This can be found at [www.crownoffice.gov.uk/in-your-community/equality-diversity](http://www.crownoffice.gov.uk/in-your-community/equality-diversity)

# A summary of practical steps

## **Training**

Ensure all staff have training in equality and discrimination, covering all nine of the “protected characteristics” under the Equality Act 2010, ie age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

They all need to be prepared to proactively offer reasonable adjustments, or to make them on request; they need to be properly equipped and trained to do this, knowing how to use all the equipment, and where to contact appropriate services.

You might also consider training on monitoring, working with interpreters and advocates, using appropriate language and non-verbal communications, particular client groups and their needs.

## **Working with individual clients**

Ensure lawyers and other staff have time to listen to clients and to build effective, trusting relationships. Be prepared to use a variety of methods to explain legal terms, jargon, and complex subject matter.

Check at the outset that clients understand the services you offer, and have realistic expectations of what can be done. Check at the outset their preferences in relation to communication.

Get to know the local community, the population changes and other trends. Use this information to tailor training, to make good referral networks, and to build new parts of the business. Be sure to use this information to help in understanding individuals – it is not helpful to use it to make assumptions.

Log issues which are of particular interest, or where you do not at the moment provide services, so that you can refer people where appropriate.

Think about individuals’ needs in relation to court appearances and difficult documents.

## **Acting up**

Acting up applies where an employee is formally requested to undertake the full duties and responsibilities of a higher graded post for a period of at least one day/shift.

## **Annualised hours**

Annualised hours is a flexible working option where the employee is paid for the total number of hours worked over the whole year, and the actual weekly contractual hours vary to account for busy and quiet periods. Employees with an annualised hours working arrangement work a longer day when the service is busy and work shorter hours when there is less demand, but are paid the same amount each month.

## **Compressed hours**

Compressed hours is a flexible working arrangement where employees work their total number of contracted weekly hours (37 or less) over a shorter period, either four rather than five days per week, or nine rather than ten days per fortnight.

Compressed hours can help to provide an extended day/week for service provision and to help individual staff members meet their needs for work/life balance, by guaranteeing them a fifth and tenth day when they aren't working. The fifth/tenth day should be taken on a rolling basis (not a fixed day off every week or fortnight), with alternating days off across a five-week period (see below for more detailed guidance and variations).

## **BSL**

British Sign Language.

## **Disabled**

Disabled is currently the term preferred by disabled people.

This reflects the 'social model of disability', which takes the view that people are not disabled by their individual conditions of mind, body or senses, but are disabled by a society which excludes them by failing to make its environments and communications fully accessible.

The definition of disability outlined by the Equality Act 2010 covers anyone with an impairment which has a substantial and long-term (at least 12 months) effect on their ability to carry out day-to-day activities such as mobility, speech, hearing or eyesight, memory or ability to concentrate, learning or understanding, continence. The definition also includes long-term illnesses such as HIV, cancer and multiple sclerosis, from the point of diagnosis.

## **Discrimination: direct and indirect**

Direct discrimination happens when, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

Indirect discrimination takes place when A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of Bs, and this cannot be shown to be a proportionate means of achieving a legitimate aim.

## **Diverse**

Diversity means difference. When it is used as a contrast or addition to equality, it is about recognising individual as well as group differences, treating people as individuals and not pigeon-holing them, and placing positive value on diversity in the community and in the workforce.

Diverse applicants are applicants from a wide range of backgrounds, ethnicities, faiths; people who are different from each other in terms of age, gender, gender identity, disability, sexual orientation, social class.

## **Employer brand**

The term employer branding describes how an organisation markets what it has to offer to potential and existing employees. Marketers have developed techniques to help attract customers, communicate with them effectively and maintain their loyalty to a consumer brand. Employer branding involves applying a similar approach to people management.

## **Equal pay audits**

An equal pay audit involves:

- Comparing the average pay of men and women doing equal work
- Undertaking similar comparisons for white employees and those from minority ethnic groups, those with and without disabilities, from different age groups and of different contractual status
- Explaining any equal pay gaps
- Closing any gaps that cannot be justified on grounds other than sex or other characteristic

Whatever kind of equal pay audit process is used and whatever the size of the organisation, the essential features are the same. While employers are not obliged to carry out an equal pay audit, only an equal pay audit can ensure that they are providing equal pay.

It is important to recognise that an equal pay audit is not simply a data collection exercise. It entails a commitment to put right any pay inequalities related to a protected ground and which cannot be justified.

Workforce monitoring – gathering of data on workforce within an organisation using the protected characteristics.

## **Equalities monitoring or workforce monitoring**

Equalities monitoring is the process of collecting, storing and analysing information about employees' and/or clients' gender, ethnicity, disability, age, religion, sexual orientation or social class.

Monitoring such information allows organisations to ensure they are delivering services and employment fairly, equally and appropriately to all groups.

Firms monitoring equality (whether in recruitment, workforce, client take-up/satisfaction or outcome) are advised to use the categories (eg to describe ethnic group, sexual orientation, etc) which the Society has used in its Equality and Diversity in the Legal Profession in Scotland research or which the Equality Act 2010 uses the protected characteristics. These can be found in the questionnaire in the appendix of the report at: [www.lawscot.org.uk/diversity/research.aspx](http://www.lawscot.org.uk/diversity/research.aspx)

## **Equality impact assessment**

An equality impact assessment is a tool for identifying the potential impact of an organisation's policies, services and functions on its service users and staff.

## **Gender Recognition Register**

The Gender Recognition Act 2004 gives transsexual people the legal right to live in their acquired gender. People should make applications to the Gender Recognition Panel for legal recognition in their acquired gender. Applicants will need to complete the relevant application form, which can be obtained from the panel, along with the required evidence. When the panel has issued the Gender Recognition Certificate, the Registrar General will create a new record in relation to them in the Gender Recognition Register.

## **Job share**

Job share occurs where two people voluntarily share the duties and responsibilities of one full-time position on an hourly, daily or weekly basis, with the salary and leave entitlement allocated on a pro rata basis.

Each job sharer works under a normal contract of employment and is subject to the provisions of current employment legislation. Job sharing is quite different from part-time work where the employee is individually responsible for the work. Job sharers share all of the responsibilities of the post which they hold jointly.

## **'Out'/'outing'**

'Coming out' is the term used by lesbians and gay men to refer to being open about their sexuality. Many LGBT people are not 'out' at work, or are 'out' to only some of their colleagues.

'Outing yourself' is synonymous with 'coming out'. 'Outing' others, or putting people in a position where they need to be out, is not regarded as good practice.

## Positive action

The Equality Act 2010 allows organisations to take positive action:

- To minimise disadvantage (where there is some evidence that those who share a protected characteristic experience a connected disadvantage)
- To meet needs (where there is evidence that those who share a protected characteristic have different needs)
- To encourage participation in an activity (where there is evidence of low participation by those who share a protected characteristic)

For example, an employer might respond to under-representation by a particular group in training, recruitment or partnership by:

- Offering selective training programmes
- Advertising to encourage applications
- Training staff responsible for selection

This is *positive* action.

Offering someone a job or promotion on the basis of their gender, race, etc is positive discrimination and is illegal. Quotas (as opposed to targets) are also illegal.

## Public sector equality duty

Scottish public authorities must pay “due regard” to the need to: eliminate unlawful discrimination, victimisation and harassment; advance equality of opportunity across all of the protected characteristics. The Scottish regulations for the specific duties (the means of promoting these general duties) came into force in May 2012. The accompanying non-statutory guidance explains that authorities should:

- Report on mainstreaming the equality duty
- Publish equality outcomes and report progress
- Assess and review policies and practices
- Gather and use employee information
- Publish gender pay gap information
- Publish statements on equal pay
- Consider award criteria and conditions in relation to public procurement
- Publish in a manner that is accessible

## **Reasonable adjustments**

The Equality Act 2010 requires employers to make changes to help disabled people work and those providing services (both public and private) to make changes to help disabled people access their services.

These are known as reasonable adjustments and can include:

- Making changes to the building or premises where the person works or where services are provided to the public
- Changing the way in which work is done
- Providing equipment that will help the person do their job
- Providing information in other formats (at least on request) – these might include large print or audio

## **Trans/transgender/transphobia**

Transgender or trans are umbrella terms used to describe a whole range of people whose gender identity or gender expression differ in some way from the gender assumptions made about them when they were born.

These terms can include: transsexual people (who have changed or are in the process of changing their gender); intersex people (with biologically ambiguous genitals/reproductive systems/chromosomes); cross-dressing/transvestite people; and androgyne/polygender people (who do not feel comfortable thinking of themselves as simply male or female).

Transphobia refers to the hate of/discrimination against transsexual and transgender people.

### Other resources from the Law Society of Scotland

Research on the composition of the profession, issues round discrimination, and work to involve various equality group can be found at [www.lawscot.org.uk/diversity/research.aspx](http://www.lawscot.org.uk/diversity/research.aspx). This includes downloadable copies of the Women in the Legal Profession in Scotland and Equality and Diversity in the Legal Profession in Scotland reports referred to in this guidance.

The Society's own Equality and Diversity Strategy can be found at: [www.lawscot.org.uk/diversity/equality\\_strategy.aspx](http://www.lawscot.org.uk/diversity/equality_strategy.aspx)

The Standards of Conduct (including the rule on equality) can be found at: [www.lawscot.org.uk/Members\\_Information/Standards](http://www.lawscot.org.uk/Members_Information/Standards)

Free online CPD on diversity issues facing firms and employers can be found at: [www.mediazone.brighttalk.com/comm/Legal/0eea3108c8-5965-1407-5540](http://www.mediazone.brighttalk.com/comm/Legal/0eea3108c8-5965-1407-5540)

#### Promoting equality in employment

The Equality and Human Rights Commission has produced guidance on the Equality Act 2010 for employers and workers.

See [www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance](http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance)

The Business Disability Forum has a range of resources to support employers in removing barriers for disabled people in their recruitment processes at: [www.barrierfree-recruitment.com](http://www.barrierfree-recruitment.com)

Action for change: advice about how to break down gender segregation in vocational education, training and work. Guides for careers advice professionals, teachers, work experience co-ordinators, training and learning providers are available from [www.equalityhumanrights.com](http://www.equalityhumanrights.com), click on publications, gender.

ACAS produce guides to age, religion or belief and sexual orientation in the workplace as well as advice on the equalities legislation and other advice for employers. These are available from: [www.acas.org.uk](http://www.acas.org.uk)

The UK Government's [www.agepositive.gov.uk](http://www.agepositive.gov.uk) website contains good practice examples, case studies and resources to encourage positive practice in the recruitment and retention of older workers.

Stonewall [www.stonewall.org.uk](http://www.stonewall.org.uk) produce a series of resources on sexual orientation for employers, including:

- Gay people, your business – What small employers need to know
- Sexual Orientation Employer Handbook, 3rd edition
- Career Development: How to support your lesbian and gay employees
- Bullying: Preventing the bullying and harassment of gay employees
- Workplace: People perform better when they can be themselves

Equal pay audit toolkit for small businesses at:

[www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit-for-small-businesses](http://www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit-for-small-businesses)

Or for larger (50-plus employee) firms at:

[www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit/carrying-out-an-equal-pay-audit](http://www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit/carrying-out-an-equal-pay-audit)

Flexible working: a guide for employers and transformation of work: ten practical tips for employers are available from [www.equalityhumanrights.com](http://www.equalityhumanrights.com), publications and resources section, click on gender.

Making Reasonable Adjustments at Work for People with Mental Health Problems is available from [www.samh.org.uk](http://www.samh.org.uk) publications section.

### **Preventing and tackling bullying & harassment**

The Society has produced guidance for firms and individuals on preventing bullying and harassment. This includes practical steps which can be taken by firms and model policies.

[www.lawscot.org.uk/media/291105/preventing\\_bullying\\_and\\_harassment\\_%20guidance\\_june\\_2011.pdf](http://www.lawscot.org.uk/media/291105/preventing_bullying_and_harassment_%20guidance_june_2011.pdf)

### **UNISON**

Information on tackling bullying and harassment.

[www.unison.org.uk](http://www.unison.org.uk)

### **The Andrea Adams Trust**

This charity is committed to helping both the individual and organisation deal with the problem of bullying and harassment.

[www.andreaadamstrust.org](http://www.andreaadamstrust.org)

## **Bullying OnLine**

Bullying OnLine is the UK national workplace bullying advice line and a leading source on bullying. It has extensive resources on bullying in the workplace and other related issues.  
[www.bullyingonline.org](http://www.bullyingonline.org)

## **ACAS**

Guidance for employers and employees on bullying and harassment at work. Their advice leaflet, *Bullying and harassment at work: a guide for managers and employers*, includes a checklist for things to include in a dignity at work policy at:  
[www.acas.org.uk/CHttpHandler.ashx?id=304&p=0](http://www.acas.org.uk/CHttpHandler.ashx?id=304&p=0)  
[www.acas.co.uk](http://www.acas.co.uk)

## **Trades Union Congress**

Information on bullying and harassment for employees, trade union representatives and links to other sites and campaigns.  
[www.tuc.org.uk/tuc/rights\\_bullyatwork.cfm](http://www.tuc.org.uk/tuc/rights_bullyatwork.cfm)

## **Business Link**

Useful advice for small businesses in drafting bullying and harassment policies at:  
[www.businesslink.gov.uk/lbdotg/action/detail?r.l1=1073858787&r.l3=1074038578&r.lc=en&type=RESOURCES&itemId=1073792621&r.l2=1074207487&r.s=m](http://www.businesslink.gov.uk/lbdotg/action/detail?r.l1=1073858787&r.l3=1074038578&r.lc=en&type=RESOURCES&itemId=1073792621&r.l2=1074207487&r.s=m)

## **Dignity at Work Partnership**

The Dignity at Work Partnership is the world's largest anti-bullying project, with £1 million funding from the Department of Trade and Industry. Downloads include information packs for human resources and for leaders and tips for those experiencing bullying.  
[www.dignityatwork.org](http://www.dignityatwork.org)

Sample Dignity at Work policies. Here are a few starting points in addition to the above:  
[www.nhsemployers.org/practice/practice-1006.cfm](http://www.nhsemployers.org/practice/practice-1006.cfm)  
[www.nujglasgow.org.uk/bullyingdaw.html](http://www.nujglasgow.org.uk/bullyingdaw.html)  
[www.scotland.gov.uk/Resource/Doc/158746/0043088.pdf](http://www.scotland.gov.uk/Resource/Doc/158746/0043088.pdf)

## **Age and the Workplace**

[www.gov.uk/government/organisations/department-for-work-pensions/series/age-positive](http://www.gov.uk/government/organisations/department-for-work-pensions/series/age-positive)

## Promoting equality in service delivery

### Access

The Equality and Human Rights Commission has produced guidance on the Equality Act 2010 for service providers. See:

[www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance](http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance)

See it Right – Guidelines and practical advice on designing, producing and planning for accessible information, signage, websites and electronic information at:

[www.nib.org.uk](http://www.nib.org.uk)

Making reasonable adjustments - Advice about making changes to physical features, services, policies and procedures, for disabled people.

[www.lawscot.org.uk/members/members-services/publications/ensuring-fairness,-creating-more-accessible-services](http://www.lawscot.org.uk/members/members-services/publications/ensuring-fairness,-creating-more-accessible-services)

Several different sources are available from the Equality and Human Rights Commission for employers, service-providers and public bodies.

[www.equalityhumanrights.com/publications-and-resources-section](http://www.equalityhumanrights.com/publications-and-resources-section)

or

[www.equalityhumanrights.com/en/yourrights/rightsindifferentsettings/shopsandservices/Pages/Makingreasonableadjustments.aspx](http://www.equalityhumanrights.com/en/yourrights/rightsindifferentsettings/shopsandservices/Pages/Makingreasonableadjustments.aspx)

How to be LGBT Friendly - 30 Practical Ways to Create a Welcoming Environment for Lesbian, Gay, Bisexual and Transgender People, produced by Prism, the LGBT Forum for Leicester, Leicestershire and Rutland (2008), at:

[www.lgbc.com](http://www.lgbc.com)

Working with a British Sign Language interpreter – Factsheet includes information about how to book an interpreter, when to use one, costs, how to work effectively on the day and where to get more information. Produced by Royal National Institute for the Deaf.

[www.nid.org.uk](http://www.nid.org.uk)

### Treatment and communication

The Plain English Campaign produces a series of guides covering how to write in plain English in letters, forms, reports and websites. These are available from:

[www.plainenglish.co.uk](http://www.plainenglish.co.uk)

See it Right Guidelines, Practical advice on designing, producing and planning for accessible information for people with sight impairments from the Royal National Institute for the Blind.

[www.nib.org.uk](http://www.nib.org.uk)

Web Content Accessibility Guidelines.  
[www.mib.org.uk](http://www.mib.org.uk)

Make it Clear, a guide to making information clear and easy to read and understand, Mencap (2006)  
[www.mencap.org.uk](http://www.mencap.org.uk)

Website accessibility guidance – a guide to good practice in commissioning accessible websites and a booklet called Making Websites That Are Easy For Everyone To Use, are available from [www.equalityhumanrights.com](http://www.equalityhumanrights.com), publications and resources section, click on disability and then select web accessibility guidance.

How to be LGBT Friendly: 30 Practical ways to create a welcoming environment for lesbian, Gay, bisexual and transgender people. Produced by Prism, the LGBT Forum for Leicester, Leicestershire and Rutland (2008)  
[www.lgbc.com](http://www.lgbc.com)

## Partnerships and procurement

Non-statutory guidance for Scottish public authorities on the public sector equality duty is available at: [www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities](http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities)

Race equality and procurement in local government: a guide for authorities and contractors is available from [www.equalityhumanrights.com](http://www.equalityhumanrights.com), publications and resources section, click on race and then public sector.

Common standard for equalities in public procurement in relation to gender and good practice is available from [www.equalityhumanrights.com](http://www.equalityhumanrights.com), publications and resources section, click on gender, employment.

## General

Diversity at work: 8 small steps for small and medium-sized businesses:  
[www.hfhrpol.waw.pl/pliki/DiversityAtWork8StepsForSmallAndMediumsizedBusinesses.pdf](http://www.hfhrpol.waw.pl/pliki/DiversityAtWork8StepsForSmallAndMediumsizedBusinesses.pdf)

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