



Association of Women Solicitors

Essential for Success

www.womensolicitors.org.uk

Response to Legal Education and Training Review Discussion Paper 02/2011 on Equality, Diversity and Social Mobility.

About the Association of Women Solicitors

The Association of Women Solicitors was established in 1923 a year after the first woman, Carrie Morrison, was admitted as a solicitor. The Association will therefore be 90 years old in 2013. It is a Recognised Group of The Law Society and has a current membership of over 18000 qualified and trainee women solicitors.

The Association's aim is to be an essential network promoting the potential and success of every woman solicitor at all stages of her career offering support and advice and representing the diverse interests of its members.

Response to Legal Education and Training Review Discussion Paper 02/2011 on Equality, Diversity and Social Mobility.

We respond to Questions 21-25 of the Discussion Paper, covering the issues (gender/solicitors) on which we have expertise.

Q21. What equality, diversity and social mobility outcomes (if any) would you wish to see prescribed by approved regulators in respect of legal education and training?

Generally- an independent, strong, diverse and effective legal profession as required by the Regulatory Objectives and the Legal Services Act 2007 with the same opportunities for all irrespective of gender, and the other categories protected by the Equality Act 2010.

In particular we would like Equal Pay to be prescribed by the SRA as a specific outcome for solicitors. This legislation, originally enacted in the Equal Pay Act 1970, is now over 40 years old but the issue remains with the solicitors' profession as one of the worst offenders. The obtaining information mechanism introduced by s. 138 Equality Act is a step in the right direction but after 40 years it seems clear that legal remedies under employment law and through the Employment Tribunal are not sufficient. We invite the SRA to consider this as an aspect of regulation for solicitors.

The SRA should clearly assert its commitment to protecting women who are in a vulnerable position in the employment market within the solicitors' profession. Female trainee solicitors, for example, women solicitors seeking to exercise their rights under the Maternity and other relevant legislation, women returning to work as solicitors after a career break for domestic or other reasons, and women who may experience discrimination additional to gender based discrimination arising from their membership of other minority groups such as BME women, disabled women and LGBT women.

The SRA should exercise its regulatory powers effectively in practice to ensure proper protection for such potentially vulnerable groups of women.

Q22. Is there a case for introducing recruitment targets for equality and diversity purposes, and if so, should these be measured against the general population, or general university, or law school or other norms?

Our view is that further research is necessary on this difficult issue.

For the avoidance of doubt we do not support the introduction of quotas.

Q23. There have been long term criticisms of lack of support for returners-to-work. Are there gaps in returner-to- work programmes, or entity training obligations to returners, that should be addressed by the approved regulators?

Yes. The attrition rate for female solicitors is 42% within 10 years of qualification. Our research by Professor Janet Walsh (Survey on Women Solicitors' Careers, Work-Life Balance and Use of Flexible Working Arrangements March 2010) <http://www.womensolicitors.org.uk/sites/womensolicitors.org.uk/files/page/attachment/ReportExecutiveSummary.pdf>)

indicated that women solicitors perceived that there are negative career consequences associated with Flexible Working. 50% of Respondents believed that lawyers who made use of such policies were viewed as less serious about their careers. There is a perception among women solicitors that law firms pay lip service to work/life policies and flexible working structures and are not committed to their implementation. As with Equal Pay, although the right to request flexible working is enshrined in law the existing enforcement procedures are insufficient. We would therefore welcome regulatory involvement on this issue.

The Association of Women Solicitors has run its own highly acclaimed Returner Course for over 30 years, widely acknowledged as a leader in the field for women and men wishing to return to work after a career break. The programme includes sessions on the challenges of returning to the workplace and regaining confidence. The high take up rate for the course suggests that there may well be a need for training obligations to returners to be addressed by approved regulators.

Q24. Are you aware of any other significant training gaps or needs that appear significantly to limit career progression and retention of a diverse workforce?

Yes. The standard LPC does not cover the commercial aspects of survival in private practice - competition, promotion/marketing, image, client perception etc. We believe that these factors contribute to the high percentage of women who leave the profession within 5 years of qualifying. Inclusion of training on these factors within the LPC could assist in retention and/or more informed career choices for women, for example between the public and private sectors.

Q25. Do you agree that (i) diversity training should take place at several career points including the LLB, LPC, BPTC stages and for qualified lawyers (as CPD). (ii) Approved regulators should also specifically require diversity training of senior staff in firms/chambers/ABS? If so why, if not, why not?

Yes. Diversity training should commence as early as possible (including on the GDL) and continue throughout the career.

In addition the SRA should positively encourage solicitors' firms and other organisations that employ solicitors to implement effective practical measures to help diverse employees and clients that will assist in actually making equality and/or diversity a reality in law firms.

The SRA should also actively monitor all law firms and organisations to ensure that they have adequate Equality & Diversity policies and procedures that are effectively implemented in practice. The SRA must also have the powers to impose meaningful and effective sanctions on any solicitors' entity that demonstrably fails to comply with its equality and diversity obligations to employees and clients.

Please use the space below to add any other comments you wish to make in response to this Discussion Paper.

Fuller Response

We note the suggestions for an aptitude test and/or provision of information to prospective solicitors prior to enrolment on the LPC. Having read the Law Society evaluation on the use of compulsory tests our view is that the diversity aspect would be neutral. We remain concerned however about the mismatch of LPC graduates to Training Contracts. We therefore support provision of full, accurate and up to date statistical information to law degree and GDL students *before* commitment to LPC. Law schools should be required to provide accurate statistics both in LPC promotional material and by communication methods used by current students. The information could include a voluntary aptitude assessment.

We are concerned about the high attrition rate for women solicitors and believe that many who depart do so on discovering the cold realities of commercial practice. We believe that many female students are encouraged to take LPC without being given any real indication of the extent of the competition for work and in the mistaken belief that the technical competence evidenced by an LPC certificate will ensure both entry to the profession and survival. It will not. Law and GDL graduates are nevertheless steered into taking LPC without any consideration of whether or not a career as a solicitor is suitable for that individual.

For example, a law undergraduate, seeking advice at a student forum in the middle of her second year, was not sure whether she was likely to attain a 2:1 degree. She was aware of the reduced employment prospects with a lower class of degree. The mentor therefore suggested that she awaited her summer result before deciding whether to register for the expensive LPC. The student replied that that was going to be too late because on the advice of her tutor she had already paid her deposit to take Legal Practice Course, provided on the same campus.

We therefore suggest a voluntary aptitude test *before* commitment to the LPC, as

is now being introduced for barristers, assessing the likelihood of success *as a solicitor* rather than simply passing the LPC. Low scoring candidates would remain eligible to take LPC and complete training but having made an *informed* decision to do so. We advocate *informed entry* into the competition.

Topics covered in the aptitude test would include the extent of the competition, how the legal services purchaser chooses (for example solicitors spend infinite hours securing additional accreditation by membership of specialist panels - most clients have never heard of those) and how the would-be solicitor needs to develop a “personal brand” or sales pitch to bring in orders. Expertise is or is perceived to be common to all solicitors and research confirms that in fact the potential client decides on factors such as brand, image, and demeanour within the first 90 seconds of the initial contact. This is a particular challenge for women.

Also covered should be the fees for the LPC (around £13,000.00 in London £10,000.00 elsewhere) to be added to the student's existing debts, and that if the aspiring solicitor gains LPC but is unable to obtain legal work the LPC certificate puts the individual at a disadvantage applying for other jobs. The Employer seeking a bilingual secretary, for example, may not wish to take a candidate who has spent 4 years and much money training to become a solicitor.

“Sales”/ “getting out and bringing in work”, perceived as male skills, could also be an optional subject within the LPC itself. The current training, developed in an era of a conveyancing monopoly and restricted entry to the profession, produces able lawyers but too many of them. The system needs to move into the 21st century of a finite market share and an infinite oversupply of providers.

Appropriate arrangements must be made to cater for any special needs that women solicitors have in practice, to ensure that they are not unfairly disadvantaged by comparison with any other candidate when doing any test or assessment.

In our view the SRA has not done sufficient to embed the social mobility and fair access agenda into its future planning in deciding to abolish the Minimum Salary for trainee solicitors. Two thirds of current trainees are women who will thus be disproportionately affected by the decision. We are concerned that abolition of the Minimum Salary will turn able women away from the profession and the result will be a return to a less diverse profession reflecting means rather than merit.

There is however some further regulatory action that could still be taken on Equal Pay as we suggest above. The latest figures on female partnership and judicial appointments indicate that although the number of women promoted is increasing there is still a long way to go before the diversity of the profession on admission (over 60% female) is fully represented at the top. A requirement for Equal Pay within entities from the start of the career onwards would at least create a level playing field from the first stage of the competition.

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Expanded September 2012

