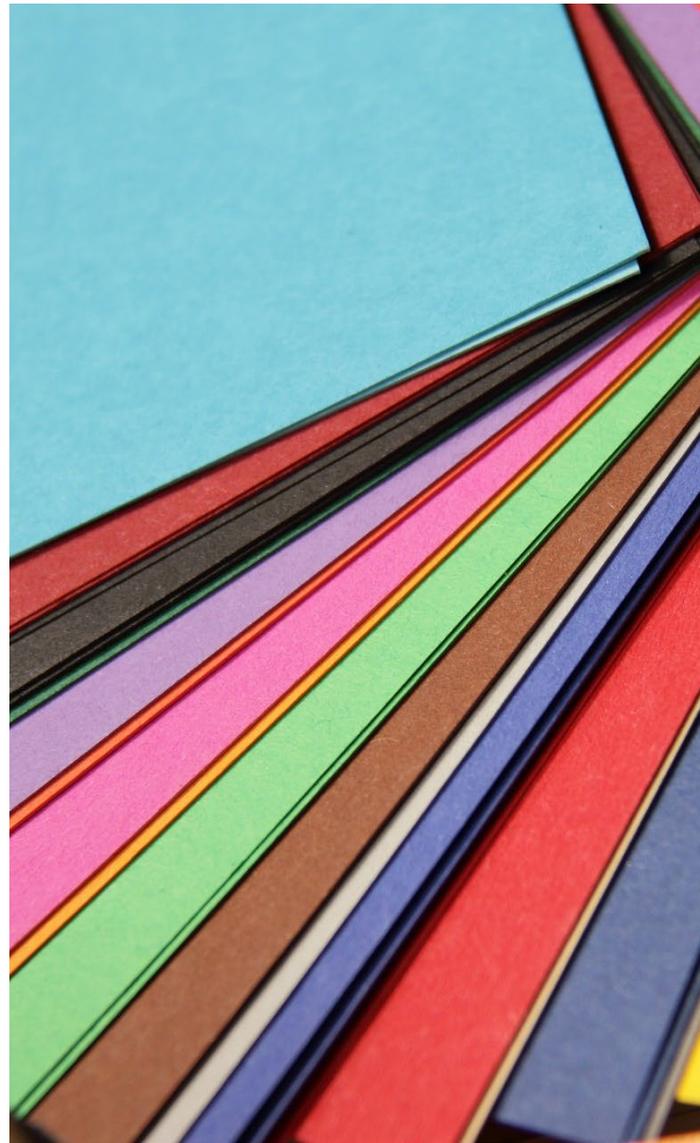


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# The Business Case for Diversity

## A guide for Costs Lawyers

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Costs Lawyer Standards Board

CLSB  
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## Introduction

In 2018, the Solicitors Regulation Authority (SRA) published a [risk outlook paper on the business case for diversity](#). That paper provides a framework for thinking about the benefits of diversity in a professional setting and contains resources that lawyers can use to promote diversity within their own practice and the wider profession.

We are mindful that many Costs Lawyers work in firms that are regulated by the SRA, and the SRA’s paper will be directly applicable to them. More broadly, we believe that understanding the business case for diversity is important for all Costs Lawyers, regardless of the way in which they choose to practise. This includes Costs Lawyers who are sole practitioners, since they will encounter diversity and inclusion issues in engagement with their clients and in their supply chains.

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For these reasons, the CLSB has collaborated with the SRA to produce this short guide, which aims to make the SRA’s paper accessible to our regulated community. It draws on the SRA’s research and findings, but has been tailored to issues that are particularly relevant to the Costs Lawyer profession. We would like to thank the SRA for its support with this initiative.

## The business case for a diverse profession

### Why diversity matters

Equality and diversity in the legal professions are important for many reasons, including:

- high standards – allowing the most talented people to become practitioners and progress in their careers, ensuring a highly skilled and proficient workforce;
- the effective administration of justice – a diversity of views and approaches supports an independent and effective justice system, whether in law firms or in the judiciary;
- improved access to services – some people may be more likely to seek legal advice from lawyers they share some social or cultural characteristics with.

There is also a real commercial advantage to having a diverse workforce. There is growing evidence about the positive relationship between diversity and commercial performance. For example, closing gender pay gaps has been estimated to add £150bn to the UK economy by 2025. Research also suggests that an additional £24bn, representing 1.3% of GDP, could be added from full representation of BAME individuals across the labour market, through improved participation and progression.

Some lawyers, and the firms they work in, are taking positive actions to address differences in the balance of gender, ethnicity and sexuality, and to improve social mobility and the support given to disabled staff. However, there is still some way to go with both recruitment and career progression for the legal professions to be fully representative across all strands of diversity.

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Embedding diversity and inclusion into workplace culture is an important part of developing a modern, open competitive legal sector, providing accessible services for those who need them.

*“Promoting and supporting diversity in the workplace is an important aspect of good people management – it’s about valuing everyone in the organisation as an individual. However, to reap the benefits of a diverse workforce it’s vital to have an inclusive environment where everyone feels able to participate and achieve their potential. While UK legislation – covering age, disability, race, religion, gender and sexual orientation among others – sets minimum standards, an effective diversity and inclusion strategy goes beyond legal compliance and seeks to add value to an organisation, contributing to employee well-being and engagement.”*

**Chartered Institute of Personnel and Development, 2017**

## Recruitment

Diversity across all levels of staff, including senior leadership, has been linked to improved organisational performance. For example, [based on an international analysis of public companies](#), those in the top quarter for ethnic diversity are 35% more likely to have financial returns above their national industry average. And companies in the top quarter for gender diversity are 15% more likely to have profits above their national industry average. In addition, for every 10% increase in gender diversity in senior leadership, profits rise by 3.5%.

Unequal business performance within the same industry and country shows that staff diversity gives a competitive advantage, as market share shifts toward more diverse companies over time. For example, [some insurance companies have indicated](#) that they look to employ legal firms with diverse teams.

Organisations with the best reputation for diversity will appeal to the widest talent pool of potential candidates. Removing the barriers that some groups face to entering, and

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progressing within, the profession and some organisations, maximises the chances of getting and retaining the best people for each role.

*“It is simply good business sense to recognise the enormous potential of women and to take action to nurture and progress female talent.”*

**Justine Greening, former Minister for Women and Equalities, 2017**

## Cost efficiencies and improved productivity

Organisations that have robust equality and diversity practices, which monitor the recruitment, pay and promotion of all groups, benefit from higher labour productivity and lower staff turnover. Improved employee morale and engagement associated with a diverse and inclusive workforce improves retention rates of staff and talent. This lowers recruitment and severance costs and the risk of reputational damage from employment tribunals.

Flexible working and home working are often seen as ways of supporting women in work, but can be used to help the work-life balance of all staff, support everyone with caring responsibilities and can increase productivity. Agile working also gives staff the flexibility to manage their work-life balance, as the focus is on outputs rather than the time spent at work. Senior managers can lead by example, such as showing that it is acceptable to work flexibly by noting in their calendar when they are out of the office for family commitments.

## Better understanding of the market

Staff with diverse backgrounds and perspectives will have insights about the widest range of stakeholders. Diversity at all levels within a business can lead to addressing the customer needs and cultural sensitivities of untapped markets. This might be, for example, through improved market strategies or new products and services aimed at the needs of diverse communities. This can lead to higher customer satisfaction, as well as widening the customer base.

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*“Diversity at all levels in organisations builds strong foundations for long-term success, in both the private and the public sector. Making good use of the talent, skills and experience of all drives better corporate performance and a successful economy. Those businesses which reflect the diverse nature of the environment in which they and their stakeholders operate are the ones that employees, customers and other stakeholders value.”*

**Stephen Haddrill, CEO, Financial Reporting Council**

## Creativity and innovation

A wider range of perspectives can be achieved when all staff are fully included within the organisation, and their differences are valued and respected. This means decisions will be more thoroughly considered and better informed, increasing the chance of more innovative ideas and solutions. More diverse teams therefore give businesses the ability to better react to market changes.

Embedding diversity and inclusion into the culture and systems of organisations allows firms to fully benefit from the creative problem-solving benefits that diverse teams bring.

*“Having a diverse firm keeps our brand relevant to clients. From a business point of view, we recognise that there is a diverse client base that we want to provide services to. We want all our staff to be themselves and have the best development opportunities. This gives us creative capability in our business, as creativity comes from diversity, not from a conversation with 10 people the same as yourself.”*

**Large legal firm**

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# How Costs Lawyers can help overcome barriers to diversity

## Interplay between different barriers

People's career paths and choices are influenced by their social background and education as well as barriers to entering, and progressing in, the profession.

There are different barriers for different groups, and different barriers within groups. And some people face multiple barriers if they are a member of more than one disadvantaged group. So, it is important not to group all strands of diversity, or even all groups within a strand, together when trying to overcome the barriers. This means that it is best for employers and individual Costs Lawyers with responsibility for recruitment, progression and other development decisions to take more than one approach to improving diversity.

## Education

It is important to value skills, not just school results. [Research shows that](#) school pupils from less advantaged backgrounds often make subject choices that negatively affect their prospects, and the quality of information, advice and guidance is weaker for these pupils. They also lack access to wider opportunities, such as a variety of sports clubs and language classes, that help develop the non-educational competencies that are valued in professions. This can also apply to some of the minority ethnic groups who tend to come from lower socio-economic backgrounds.

Attainment at school or college continues to be used as screening criteria by two thirds of leading legal firms, and it affects candidates' ability to secure employment. However, [research suggests that](#) these measures do not guarantee high performing candidates are recruited. SRA data also shows that university law students from disadvantaged backgrounds and those that study part-time tend to have lower pass rates. And students who are a member of several different disadvantaged groups have a lower attainment than if they were a part of just one.

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*“The Fairness Project, run by three universities, equips students to maximise their employability through understanding inequality and unfair diversity barriers in the legal profession, helping them to develop personal strategies to overcome these. The students are encouraged to address their own biases to also help them to become fairer employers and managers in the future, and to help change the culture of the legal profession from within.”*

**The Fairness Project: equipping students to maximise employability**

## Recruitment

Other barriers to entering and progressing in the profession include the varied opportunities to gain experience, the availability of role models, recruitment biases and that some organisational cultures are not inclusive.

Students’ access to work experience can be affected by their social or family networks. And someone with caring responsibilities, or who needs to earn additional income, will have less time to be able to gain experience by volunteering. Costs Lawyers can consider getting involved in initiatives that give work experience to students from disadvantaged backgrounds, such as Pathways to Law. This can also help students improve their understanding of the work that Costs Lawyers do at an early stage.

A lack of positive role models has been shown to discourage disadvantaged and BAME graduates from applying to some professions and organisations. Role models are particularly important to the progression of black British employees, but there are few BAME senior managers in large organisations.

Initiatives such as Inspired by Law, Sponsors for Educational Opportunity and the Social Mobility Business Partnership widen aspirations and give students some role models, as well as expanding the potential talent pool. Some legal organisations also recognise the value in having a website, and other marketing materials, that better reflect the diversity of the legal professions and potential students.

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Unconscious bias and discrimination have also been shown to be barriers to diversity. Several studies have found that job applications using a name associated with a minority ethnic group are less likely to be successful in getting to the sift stage of recruitment.

*“Race, gender or background should be irrelevant when choosing the right person for a role – few now would disagree with this. But organisations and individuals tend to hire in their own image, whether consciously or not. Those who have most in common with senior managers and decision makers are inherently at an advantage. I have to question how much of this bias is truly ‘unconscious’ and by terming it ‘unconscious’, how much it allows us to hide behind it. Conscious or unconscious, the end result of bias is racial discrimination, which we cannot and should not accept.”*

**McGregor-Smith Report on Race in the Workplace, 2017**

Legal organisations can work to reduce their recruitment bias by updating their candidate screening systems, which could improve social mobility and diversity across all groups; for example, by removing school attainment criteria, or by removing all university or school details from applications, so candidates are judged only on their performance and potential. Contextual recruitment, such as the system offered by Rare, also helps organisations identify candidates from disadvantaged backgrounds with the greatest potential.

Behavioural science has been put to good effect in improving recruitment diversity in other sectors. For example, changing the phrasing of a job advertisement and job description to appeal to all applicants’ values and sense of belonging, along with advertising through media that appeals to different groups, widens the diversity of recruits. And having a diverse team to make recruitment decisions increases the chances of finding the best candidate.

Research has also shown that men are more likely to “self-promote” than women. If recruitment processes places high value on this trait, they may deter or disadvantage

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female candidates. This should be taken into account when setting recruitment criteria and interview questions.

Generally, organisations should make sure that their approach to interviews and any written exercises are suitable for all candidates and make reasonable adjustments where needed.

*“We make three key recommendations for firms wishing to access the widest range of talent to benefit their business and their clients in future; first, amend attraction strategies to encourage higher numbers of applications from students with a wider range of educational and socio-economic backgrounds; second, ensure that these diverse students have access to similar levels of support enjoyed by their more traditional peers, in order to navigate the selection process effectively; third, interrogate current definitions of talent, including how potential is identified and assessed, to ensure that disadvantaged students are not ruled out for reasons of background rather than aptitude and skill.”*

**Social Mobility and Child Poverty Commission, 2015**

## Progression

The barriers set out above, along with unconscious bias and discrimination when deciding who to give opportunities and promotions to, affect diversity at all levels of seniority within organisations.

Mentoring programmes are proven to improve diversity at management levels, along with being more transparent with diversity statistics and practices. Middle and senior managers can also celebrate and encourage people with diverse characteristics, call out biases, champion diversity initiatives, and challenge existing work practices. Increasing the interactions that managers have with all staff means they are more likely to recognise the value that people from different backgrounds bring to the business.

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A key action that has been identified for improving the progression of all groups of people is to make sure that legal organisations' cultures are inclusive, so that all staff feel able to be themselves. Maintaining a continued focus on improving diversity is also important. This can be achieved with minimal cost and resources, for example:

- Make flexible or agile working available to all staff, where possible.
- Networking groups can be more visible and inclusive, encouraging allies to attend the groups and identifying how senior managers can support the groups.
- Small organisations can set up, or join, networks across the wider legal industry to share best practices and accelerate change.
- Both men and women should be given the flexibility to take parental leave.
- Events can be held that reflect the cultural and social values of all staff.
- Business in the Community shares best practice and has online toolkits and guides to support employers.