



A new Framework of Equality and Diversity Standards

**Advice and Information from the Equality and Diversity Committee of
the Law Society of Scotland**

February 2015

Advice and Information - a new Framework of Equality and Diversity Standards

1. Overview

The Law Society of Scotland aims to lead and support a successful and respected profession within both the business sector and as an important part of the justice system. It is also important that solicitors are highly regarded as employers and service providers. We must reflect the public we serve and lead the way in meeting contemporary expectations around equality and diversity. For our profession to be successful we must ensure we are best placed to benefit from the widest possible talent pool and that we are able to keep this talent within the profession. We must also make sure we offer our services to the widest possible pool of commercial and private clients. The new standards aim to support these aspirations.

2. Drivers for change

The Society has now undertaken a decade of research on equality, including three profession-wide surveys with a response of around 3,000 each time. Detailed focus groups, and the examination of other professions and jurisdictions, also form part of our evidence base. We have participated in joint research, including with the Judicial Appointments Board for Scotland, and with other justice bodies around access to legal services. The Society also considered various other factors, including the requirements placed on it by the Equality Act 2010 and the Legal Services (Scotland) Act 2010.

There have been improvements in many areas in the sector, including the growing number of women in the profession, but in certain areas there has been little progress over the last ten years, these include issues around:

- career progression
- partnership
- pay
- discrimination and bullying
- accessibility for clients with impairments

Much evidence suggests that a lack of clear allocated responsibility, data, clear equality goals, and training in firms are significant issues in holding back change.

3. Development and Consultation

In November 2011 the Council of the Society approved the Equality and Diversity Strategy 2011-2015. This included a proposal to explore the possibility of an Equality Standard for the profession. Our equality research showed strong support for this from members. We widely publicised our intention in our Corporate Plan commitment for 2013/14:

2013/14 - 2.2 We will explore the opportunity for an 'equality standard' for firms drawing on best practice from other jurisdictions & examining how it could support firms tendering for work

Detailed development work was carried out, and a model was prepared for a consultation. There was an extended consultation period over summer and autumn, prior to completion in October 2014. Questions were asked about both a simple set of core standards likely to drive improvements in the key areas identified (published here), and a more detailed framework to assist

firms that wanted to demonstrate their ongoing commitment (which is now being developed further).

We commissioned specific interviews with 13 legal employers/organisations and 12 equality bodies to gain detailed input to the proposals. We also publicised the consultation widely to the profession through the Journal and e-bulletin, and received a number of responses from firms and individuals. Overall, support was very positive for the proposals.

In November 2014, the Society's Council approved the new Equality Strategy (2014-17) which makes a commitment to issuing new guidance and a standards framework, and we again set an objective on this in our (2015) annual plan:

2014/15 - 3.2 We will work to improve the employment conditions for solicitors as well as access to services for clients and the public by implementing the new equality standards framework

Full details of the consultation, and all our background thinking, are available at:
<http://www.lawscot.org.uk/about-us/equality-and-diversity/framework-for-success>

4. Current legal responsibilities for firms and employers

The standards aim to support firms and employers with their existing legal responsibilities.

The Equality Act 2010 applies to all employers and service providers. Broadly speaking, employers must not discriminate against employees (or prospective employees) whether directly or indirectly, across all the **protected characteristics** (these being, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and in respect of promotion or training, termination of employment or in the application of any other detriment.

The Act also outlaws harassment and victimisation. Employers must also make reasonable adjustments if a practice or policy or a feature of any premises of the employer puts an employee at a substantial disadvantage. Employers must also ensure that staff receive equal pay for doing work which is the same or broadly similar or of equal value.

It is also unlawful to discriminate against those seeking to access services and service providers must also take due cognisance of the anticipatory duty to make reasonable adjustments for clients. It is also unlawful for a service user to be harassed or victimised

In addition, public bodies are subject to the Public Sector Equality Duty and some, also, to the Scottish Specific Duties. A significant number of solicitors in Scotland are employed as in-house lawyers in public bodies such as the Scottish Government and local Councils. These employers are already required to mainstream equality, to set equality outcomes and to monitor the make-up of their staff as well as providing information concerning any gender pay gap. They are also required to report on the progress they are making towards achieving the outcomes. The framework proposed in this consultation document has drawn on some of these good practices.

Driven by the public sector duty for public bodies to consider award criteria in their procurement exercises, firms involved in tendering exercises are increasingly being asked by public bodies (and other large corporations) about their equality and diversity practices.

The Society wants to support the legal profession in Scotland in responding to these challenges and reducing risks. We also want to ensure that Scottish solicitors are best placed to lead the way in promoting and protecting these rights whilst also recognising any shortcomings there may be in their own practices. The standards published here are designed to assist.

5. What will this mean in practice?

The 10 Equality Standards are currently published as **Advice and Information**. They are entirely voluntary at this stage and there is a final chance for feedback from members. However, employers are encouraged to consider implementing them.

The Society's Board and Regulatory Committee have indicated their intent to set the new standards as more formal **Guidance** in a year's time. Those who have implemented early will be well prepared for this. The status of guidance is that it is:

"...non-mandatory but you may be required to justify any departure from Guidance in the event of any complaint being made."

In three years' time the Board and Regulatory Committee will review if progress is being made in relation to factors such as equal pay, through our Profile of the Profession research. If not, then the passing of a formal **Rule** will be considered.

Guidance on equality and diversity, to assist in implementing these standards in any size of team, is provided in our three online publications:

- [Ensuring fairness, creating opportunity: a practical guide to equality and diversity for Scottish solicitors](#)
- [Ensuring fairness, creating more accessible services](#)
- [Ensuring fairness, closing the pay gap](#)

We plan to supplement these with a framework of 'stepping stones' to assist firms in meeting the new standards and allowing them to evidence this to their staff, clients, and prospective clients.

6. Driving change, whatever your size of team

Encouraging the publication of aims and data will focus attention on current performance and what the team may wish to improve over time. The available data will allow clients (commercial and individual) to make more informed choices, and in relation to tendering allow them to set clearer expectations. However, the approach also allows flexibility on the scale and nature of response, meaning it can be proportionate to any size of team or type of practice.

7. Pilots on 'stepping stones' towards compliance

The Society is interested in running pilots on a framework of 'stepping stones' to make achieving good practice in this area even easier. If interested, please contact diversity@lawscot.org.uk for a confidential conversation.

8. Feedback

We welcome feedback from individuals and organisations on these 10 standards, and on whether they should move to being formal guidance, or a rule and a matter of professional conduct.

diversity@lawscot.org.uk



APPENDIX 1 - THE 10 EQUALITY STANDARDS

Every law firm, licensed provider or legal team within an employing organisation (“an organisation”) should, in a manner appropriate to its services and proportionate to its size, ensure that:

Leadership

1. there is a named ‘equality lead’, who is responsible for ensuring these standards are met and, as appropriate, for reviewing the results of any equality monitoring

Strategy

2. there is an Equality Strategy for staff and delivery of client services which is reviewed annually
3. measurable objectives are set in the Equality Strategy for both staff and delivery of clients services and these are reviewed annually
4. the Equality Strategy is informed by monitoring of the workforce, with reference to the Protected Characteristics, in a way that is appropriate and relevant to the size of the practice or organisation

Staff development

5. there is a training plan for all staff on equality and diversity

Reporting and Publication

6. the Equality Strategy and annual updates on the measurable objectives are available to staff, clients, prospective clients and the Society
7. a separate statement is made annually about the composition of organisational roles with reference to the Protected Characteristics, with reporting of sex as a minimum

Equal Pay

8. there is a statement on equal pay which is available to staff, clients, prospective clients and the Society
9. if it is an organisation with more than 150 employees, its gender pay gap figures are published for full time and part time staff at each level of seniority

Accessible services

10. it is responsive to the legal needs of a wide range of diverse communities and in particular, has a single document available to the public which contains information on accessibility options for disabled and other service users