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REPORTS LEGAL

Diversity Report | October 2021



'Law firms are not looking in the right places' – Netanya Clixby profile



# Diversity Challenges:

Lawyers should talk less and do more

*Chair of the Bar Council and Law Society President speak with one voice*



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# Fear and hope

*Dominic Carman* examines how law firms are under pressure to ‘talk less and do more’ in response to multiple diversity challenges



Diversity is complex. Those tasked with managing its multiple challenges in UK-based law firms are under increasing pressure to change the profile and composition of their lawyers – at speed and scale. But in conservative and stable organisations, this takes time – or so they say. Much centres on recruitment of diverse talent and retention of that talent. The challenges are diverse too: balancing, for example, recruitment of white working-class men (statistically, the most educationally disadvantaged group) with Black women (the most under-represented group at partnership level).

How diversity matters to those using legal services is perhaps

best illustrated by a letter signed by 170+ US-based GCs in January 2019, which stated: ‘We expect the outside law firms we retain to reflect the diversity of the legal community and the companies and the customers we serve. We applaud those firms that have worked hard to hire, retain and promote to partnership this year outstanding and highly accomplished lawyers who are diverse in race, color, age, gender, gender orientation, sexual orientation, national origin, religion, and without regard to disabilities.’

If that was a wake-up call, the subsequent murder of a Black man in Minneapolis created a shock wave. ‘Following the death of George Floyd in 2020, BCLP

▲ **‘We expect law firms to reflect the diversity of the legal community and the companies and customers we serve’**

acknowledged the importance of encouraging our people to take time to listen, learn and increase their understanding of systemic barriers faced by Black colleagues and those in marginalised groups.’ In this sentiment, one would hope that BCLP speaks on behalf of lawyers in every law firm for whom Floyd’s murder was a galvanising event in their efforts to improve diversity and inclusion (D&I).

But words can only go so far. In October 2020, the FT published a prescriptive headline which served as a further call to action: Law firms urged to talk less and do more on ethnic diversity – Moves to include more lawyers from all kinds of backgrounds should start at the top. This report seeks to



examine what law firms are doing rather than talking about – in particular what they identify as the main D&I challenges and how they are addressing them.

My thanks to the following for their time and effort in making a detailed contribution: BCLP, Berrymans Lace Mawer, CMS, DWF, Eversheds Sutherland, Fieldfisher, Freshfields Bruckhaus Deringer, Gowling WLG, HFW, Hill Dickinson, Hogan Lovells, Osborne Clarke, Shakespeare Martineau, Shoosmiths, TLT, Travers Smith, Womble Bond Dickinson, and Withers. I am also grateful to 39 Essex Street, Doughty Street Chambers and Serle Court for giving comprehensive answers about D&I challenges facing the Bar, as well as to partners and former partners at Allen & Overy, Ashurst, Clifford Chance, Herbert Smith Freehills, Latham & Watkins and Linklaters for their helpful off-the-record comments.

#### Fear and hope

In researching this report, two things stood out. Considerable fear exists about the perceived lack of diversity in the legal profession, particularly among some Big Law partnerships and

the upper echelons of the Bar, and how that may impact on their reputation among clients, such as the abovementioned GCs. At the same time, this fear is counterbalanced by considerable hope that the genuine efforts now being made will bring about substantial change in the next few years so that diversity ultimately becomes embedded in every law firm to such a degree that it is no longer an issue to be confronted.

But there is still a very long way to go before that point is reached. Off the record conversations with senior lawyers at prominent firms reveal that they are acutely aware of the challenges facing them: they know too well that their UK partnerships are still predominantly male, disproportionately educated at independent schools or the best selective state schools followed by elite universities, and overwhelmingly white. Understandably, they do not want to go on the record to articulate their fears that being white, male and privileged might equate to being seen as out of touch, out of step, and unrepresentative of wider British society.

In terms of gender, law firms have begun to effect change at

▲ **The death of George Floyd in 2020 sparked anti-racism protests and galvanised law firms in their efforts to improve diversity and inclusion**

the top – as demanded by the FT last October. It is also a theme I addressed in September 2018 in a piece entitled ‘Diversity and the Magic Circle: room at the top?’ This concluded: “For the Magic Circle firm that does eventually appoint a woman as managing or senior partner, it will potentially make the biggest contribution to gender diversity among City law firms so far this century. After all, if women can successfully run Europe’s two biggest economies, then why not one of Europe’s biggest law firms? If diversity really matters to the Magic Circle, then they need to make room at the top.”

Over the past year, they have. The caricature of male, pale and stale partners in charge has seen significant change with the appointment of women to the top jobs in several large law firms. This is to be celebrated and bodes well for further progress in the years ahead, at least in terms of redressing the gender balance among the partnership cohort.

The recent flood of female appointees include: Karen Davies as the new chair at Ashurst; Aedamar Comiskey as senior partner at Linklaters; Marie-Aimée ▶

**22%**  
*Proportion of BAME partners across all UK law firms*

de Dampierre as chair at Hogan Lovells; Rebecca Maslen-Stannage as both senior partner and chair at Herbert Smith Freehills; and, breaking the glass ceiling among the Magic Circle firms, Georgia Dawson, who became the first female senior partner at Freshfields Bruckhaus Deringer last October. Most recently, Deborah Finkler was appointed as the inaugural managing partner at Slaughter and May. Neither Allen & Overy nor Clifford Chance will want to be left behind in following suit.

### UK leads the D&I field

Compared to many countries, the UK leads the D&I field. Take government, for example. Following Boris Johnson's latest reshuffle, the number of women in cabinet has increased from six to eight, while the share of women in government overall stands at 32 per cent. Meanwhile, there are now seven Black, Asian and minority ethnic (BAME) cabinet ministers, comprising 26 per cent of the total – the highest ever. This latter percentage far exceeds the equivalent BAME partnership figure at every large UK law firm.

Nevertheless, the UK legal profession ostensibly leads the field in D&I. According to the most recent data published by The Solicitors Regulation Authority (SRA), which regulates solicitors in England and Wales, women comprise 49 per cent of all lawyers in law firms. The comparable figure for BAME lawyers is 21 per cent – up from 14 per cent in 2014. Both percentages broadly reflect the working age population in the UK. But aggregate data is often misleading. Behind these headline figures, the detail shows that distinct inequalities still prevail.

Across all law firms, just 34 per cent of partners are female – a figure which falls to 29 per cent among firms with 50+ partners

“ *Magic circle law firms have made negligible progress in improving racial diversity at partner level*  
*The Daily Telegraph, July 2021*

– while BAME lawyers comprise 22 per cent of the partnership cohort. But among firms with 50+ partners, the BAME figure falls very sharply to only 8 per cent. It is widely acknowledged that the representation of British Asian lawyers among City law firms is proportionately higher than Black lawyers: 15 per cent of lawyers are British Asian compared to 7 per cent of the UK workforce. From published data, only three big City law firms – Cooley, Clifford Chance and Latham & Watkins – have more than 3 per cent of Black lawyers. By the same benchmark, other firms to make the top 10 under this benchmark – Sidley Austin, Rope & Gray, Shoosmiths, Ashurst, BCLP, Travers Smith and A&O – have between 1.8 per cent and 2.3 per cent of Black lawyers.

### Magic Circle: only eight Black partners

The shortfall is notably acute among the Magic Circle. In June 2020, the *Telegraph* ran a headline: ‘Just six of 800 partners at Magic Circle law firms are black. Two of the five firms – Allen & Overy and Slaughter and May – have no black partners in the UK despite efforts to improve diversity.’ In July 2021, the *Telegraph* followed up with another headline: ‘Magic circle law firms have made negligible progress in improving racial diversity at partner level in the last year, with just eight out of more than 800 UK-based partners identifying as black across the five firms.’ The story continued:

*1%  
of 800+  
UK-based  
Magic Circle  
partners are  
Black (just  
eight in total)*

‘Slaughter and May is the only firm to have no black partners in Britain, while Linklaters only has one, analysis by *The Daily Telegraph* found. Clifford Chance has the highest level of black representation at partner level at three.’

The absence of Black partners is not, of course, confined to the Magic Circle: many large City firms are at, or below, the one per cent threshold. Asked how they are trying to effect change, one firm responded: ‘We have set targets that are representative of the general workforce, as measured by the last census.’ There are two distinct problems with this approach: first, benchmarking future strategy for ethnic diversity by looking back ten years to the 2011 census is rather like driving a car by looking in the rear-view mirror and ignoring the road ahead; second, the 2011 census reflects the entire UK population of which 23 per cent was over 60 years of age and more than 95 per cent of that cohort were white. Things are very different at the other end of the age spectrum – the key benchmark of the future.

### Non-white majority across the UK within 40 years

To understand the ethnic future of the working global capital in which City law firms operate, a much more accurate picture of the road ahead is to be found in London's secondary school population. Figures published by the Department of Education (DoE) for 2019 show that across all 32 London Boroughs, only 30.9 per cent of pupils in Inner London schools are white; the figure for Outer London is 40.7 per cent. Overall, two thirds of pupils in all London schools are not white. In England's second and third largest cities, a similar picture emerges: in Birmingham's secondary schools, only 32.4 per cent of pupils are



white, and in Manchester, 41.2 per cent. Notably, by far the fastest growing category in all three cities is mixed race. This is perhaps the best indicator of our future Britain: a country where many millions will look like Sir Lewis Hamilton or Emma Raducanu.

On current trends, non-white Britons will form a majority of the entire UK population by the 2060s, according to David Coleman, Emeritus Professor of Demography at the University of Oxford. For the working age population, that threshold will be reached a decade earlier – i.e. by the 2050s. Accordingly, to be representative of the UK working age population, law firm partnerships of the future need to become predominantly non-white in little more than a generation. In order to achieve that, most of them need to recruit much higher percentages of non-white trainees than is currently the case. When they look at the road ahead, this is the biggest diversity challenge now facing every law firm, but especially the big City firms. To have any hope of rising to that challenge and creating a majority

*“ On current trends, non-white Britons will be a majority of the entire UK population by the 2060s*

non-white partnership, as the FT put it succinctly: they need to talk less and do more.

**Recruitment and retention: the only answer**

Of course, some firms are already doing more. A lot more. They recognise that recruitment and retention provide the answer. Linklaters has engaged BAME-owned recruitment firms to identify candidates outside the traditional avenues. In working with recruiters to broaden its potential hiring pool, Ashurst has increased its BAME intake of graduate trainees in London to 44 per cent. At Macfarlanes, 9 per cent of fee-earners promoted to partner in the past two years are from BAME backgrounds.

Other firms have also been trying to do their bit over the past decade. The longstanding Stephen Lawrence scholarship,

established in 2013 by Freshfields, supports young Black men entering the legal profession: of the 69 scholarship recipients to date, 14 have accepted Freshfields training contracts. Meanwhile, Hogan Lovells improved its BAME graduate intake from 10 per cent in 2010 to 30 per cent from 2015 onwards. Others have set ambitious short-term targets: DWF aims to have 10 per cent BAME representation in senior leadership by next year, for example.

Once recruited, the next big challenge for law firms is to keep their BAME lawyers. There is a widespread retention problem, similar to that which applies with women lawyers who leave at nearly twice the rate of their male counterparts in the first five to seven years post-qualification. Progress is being made on multiple fronts as hope begins to triumph over fear. But D&I challenges will continue to be an unrelenting priority for law firms over the next decade and beyond. In this marathon, they will need to keep running very fast to catch up with where they need to be.

*44%  
of Ashurst's  
intake of  
graduate  
trainees in  
London are  
BAME*

# Shaping recruitment to diversify your talent

*Bav Patel*, Director at Dandi Legal, explains how law firms can address the diversity challenge



## **Q** What was the inspiration behind Dandi Legal?

When law firms encourage recruitment agencies to find 'diverse' candidates, they invariably focus on standard requirements: outstanding academics and relevant experience in a comparable firm. Their assessment at the graduate recruitment level is very detailed, which provides an excellent opportunity to understand each candidate's situation and achievements fully, giving us a chance to recommend the best talent to clients.

As paralegal recruiters, we have experienced success in placing fantastic candidates from less privileged backgrounds who quite often go on to secure training contracts – some of the most satisfying placements we have worked on. Paralegals usually have limited experience and are judged primarily on academics. We've taken the opportunity to influence firms of a candidate's capability and potential, even if they were not from the typical mould which law firms usually consider. Although

**▲ Given the current focus on law firm diversity, there is now a widespread recognition that things need to change at a much faster pace**

a candidate may have what appear as average academics on paper, given the opportunity they can come across very impressively in person.

This experience led us to consider how we could leverage our expertise and experience in graduate recruitment and combine that with the rewarding aspect of having a really positive impact on the careers of people from a disadvantaged background. Dandi Legal was conceived with those two principles in mind.

## Q Why are law firms failing to meet the diversity challenge?

The law has a longstanding reputation for being inherently conservative and slower to adapt than other professions. For example, it is widely recognised as being a laggard rather than a leader in technology, although this has started to change. Equally, law firms have been quite slow in waking up to the D&I challenge and, more importantly, how to address it. Given the current focus on law firm diversity, there is now a widespread recognition that things need to change at a much faster pace in the profession. Notably, most law firms are LLPs, which are not subject to the same corporate governance obligations as public companies, for example. The recent trend of firms shifting away from LLP structures may lead to increased corporate governance and, in turn, greater emphasis on D&I in the workplace.

## Q What are the main stumbling blocks?

Until recently, many firms have generally been content with the quality and calibre of candidates they attract, so there has been less need to focus on workforce diversity and how they achieve this. Diversity has often been perceived as a numbers game, and without a defined strategy it runs the risk of becoming a box-ticking exercise. With increasing levels of intense pressure from their clients who want to see fundamental change in the law firms they use, it is becoming a significant obligation, but one which presents the same challenges.

Many firms are struggling to understand the positive impact that diversity can have on their business: increased innovation, better decision making and financial performance, among



*“ Law firms have been quite slow in waking up to the D&I challenge and, more importantly, how to address it*

*Bav Patel, Director at Dandi Legal*

other factors. Dandi Legal wants to highlight the commercial impact diversity can have on a firm as well as fulfilling a critical moral obligation. Senior management and the wider partnership need to be aware of the benefits of diversity: achieving their ‘buy in’ is central in bringing about a change which has a top-down effect on the rest of the firm.

There is insufficient diversification of entry points to the profession, particularly among larger firms. By necessity, ‘diverse talent’ often start their careers at smaller firms and then find it much harder to break into the larger firms later on.

## Q What can be done in schools and universities?

A concerted effort is needed to increase law firm presence and representation at universities, colleges and schools to raise awareness of, and accessibility into, the profession. To break the pattern of only recruiting candidates from a narrow educational background, each law firm’s profile needs to be raised at lower performing schools/colleges and non-Russell Group universities. There is a clear need for role models and diversity ambassadors at schools, colleges and universities, who may have faced similar challenges throughout their legal career and can support candidates in overcoming any hurdles.

## Q How can entry points be diversified?

Through active engagement with the broader community:

- Partnering with lower performing schools and colleges, supporting candidates to pursue opportunities and help them to take career



paths and life choices beyond what their socioeconomic background usually dictates;

- Offering work experience placements and internships to disadvantaged candidates, giving them an insight into the firm and the profession and letting them prove they are just as capable as their more privileged peers;
- Understanding recruitment policy, there is a clear need to review current recruitment, assessment and selection processes, and challenge a system that potentially favours those from more privileged backgrounds.

**Q Can assessment and recruitment processes for trainees be improved?**

Rigorous assessment is needed to contextualise achievements, reduce bias, and challenge preconceptions of what constitutes high achievement:

*“ Firms increasingly need to work on building a workplace culture of inclusivity*

*Bav Patel, Director at Dandi Legal*

- Consider candidates’ academic performance within context, rather than as an absolute;
- Understand socioeconomic backgrounds and how they can heavily influence personal circumstances, career choices and life patterns;
- Consider implementing changes to recruitment processes and policies, such as blank CV interviewing, train interviewers on recruitment bias and understand if psychometric tests and other tools disadvantage those from underprivileged backgrounds.

At Dandi Legal, we do the

above through a recruitment bias reduction model we have created.

**Q How should firms broaden their intake?**

Given the UK’s increasingly diverse population, trainee intakes need to be ever more diverse. Law firms need to understand the diversity makeup of current trainees and report statistics of each intake to ensure regular progress; they may consider partnering with suppliers who can help to increase the diversity of their intake and consult on their graduate recruitment processes. They should also examine the drivers of long-term success and whether certain educational backgrounds are really the best indicators of future success, particularly when lawyers’ skillsets now include technology, economics and finance to meet clients’ needs and expectations.

## Q Where do mentoring and coaching fit into the equation?

Interview and assessment centre 'know how' is crucial in making it through the training contract process. Unlike their more privileged peers, those from lower socioeconomic backgrounds may not have access to the same professional networks, putting them at a potential disadvantage. The strongest applications highlight legal work experience placements, an understanding of commercial awareness, extra-curricular responsibilities and strong academic achievement. However, even high achieving students from a disadvantaged background are unlikely to have the same social presence and confidence compared to their privileged counterparts. It is vital to provide mentors, workshops and resources, ideally tailored to individual requirements, to ensure that every candidate has the best possible chance of success.

## Q How can law firms improve the retention levels of BAME and women lawyers?

Focus groups involving BAME and female lawyers can help firms to understand the underlying issues and barriers they face and why they feel that they are not given the same opportunity to succeed at the top as others. Some partners, often white and male, may not be providing them with equal levels of responsibility, quality of work or support in flexible working, not intentionally, but purely through unconscious decision making. Greater diversity in the partnership helps to reduce unconscious bias towards disadvantaged groups. Diversity at the top is often the biggest barrier to achieving a diversity shift throughout the firm. Different issues are often at play. For many women, maternity

leave can unfairly impact their partnership prospects because of the way partnership promotion systems often operate, while the many groups under the BAME heading can face quite different challenges and outcomes to each other.

## Q Very few lawyers come from a white working-class background – what can be done to attract them?

Numerous reports suggest that those from a white working-class background, especially boys, have become the forgotten disadvantaged group in terms of education and achievement. And yet there is little debate on visible vs invisible diversity, society's perception of diversity, and what it really means. Law firms, understandably, have often focussed on the visible part. It's important to recognise that there is an increasing number of BAME candidates who have attended fee-paying schools and Russell Group universities whilst some of their white peers come from deprived backgrounds with very little support or opportunity. Social mobility is ultimately key in breaking notions of elitism within the profession.

This challenges the idea that diversity only relates to race or gender. To evaluate invisible measures of diversity among candidates and to fully understand the levels of deprivation to which they have been exposed – access to education, training and employment – law firms could undertake more in-depth assessments in relation to background. Firms should also report on the socioeconomic background of their workforce when presenting diversity statistics. Regrettably, the lasting effects of the pandemic are likely to exacerbate that even further. Several reports cite warnings about the

disproportionate impact it will have on the educational and economic welfare of the most vulnerable socioeconomic groups, making it more important than ever to provide support and opportunities.

## Q Lack of inclusion leads to poor retention – how can firms address this?

Diversity is a systemic issue that cannot be solved exclusively through recruitment. Firms increasingly need to work on building a workplace culture of inclusivity. This is highlighted by the attrition levels for black lawyers, particularly in the transition from trainee to associate, which is higher than for any other group.

A major cultural shift is needed to develop self-awareness, build positive relationships within teams, encourage consistent 360 feedback with management, and create a sense of belonging with equality of opportunity for all. These issues are difficult for law firms to overcome in isolation because it can be harder for minority groups to feel confident talking about the issues they face unless the firm has ambassadors, who really understand and empathise with the challenges they face and act as sponsors for change. Consulting and advising on the retention of certain groups within a firm is the next stage for Dandi Legal.

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# Facing up to reality

Time and data gathering are cited as big problems, but very few firms admit that the relative absence of Black lawyers is their biggest diversity challenge



**D**iversity can be a many-headed Hydra: for every problem solved, two more seem to emerge. But you would never appreciate that from reading law firm websites, where the word diversity features routinely, supplemented by positive abstract terms that are carefully chosen by expert marketing professionals to describe just how important D&I are to their firm.

Deploying a well-worn lexicon, these include: accessibility, ambition, aspiration, awareness,

campaigns, celebrated, collaboration, committed, confidence, culture, deeply embedded, embracing difference, empowered, excellence, future-facing, goals, life experiences, meaningful change, mentoring, networks, opportunity, outreach, perspectives, potential, priorities, proactive, programme, progress, success, talent, targeted, visibility, values...and so on.

Most law firms use some of them; some use most of them. Rather like submissions for assorted legal awards, it's all

▲ **The argument for diversity in practice should arguably be based entirely on logic**

designed to create a positive impression demonstrating just how good they are at D&I, without acknowledging any deficiencies or weaknesses. This PR spin can make it hard to distinguish between narcissistic virtue signalling and, in plain English, a genuine commitment to identifying the problem and then fixing it. Of course, both things can apply simultaneously: firms that win diversity awards for their efforts may then enjoy the widespread publicity they receive, for example.



In interview, some firms go further. Whereas students are routinely warned to avoid using clichés in their training contract applications – particularly, ‘I am passionate about law’ – these firms jump straight in. ‘We are passionate about diversity in all its forms,’ was the first line of response from one firm. When asked what their biggest D&I challenge was, another firm simply ignored the question and responded: ‘We are very fortunate to have a passionate D&I Group consisting of colleagues from every location and office within the firm. These colleagues are incredibly proactive and have launched a number of important networks...’

This may well be true, but without explanation or context of what they perceive their D&I challenges to be, such statements can appear distinctly hollow. Taking Aristotle’s line that “the law is reason free from passion”, the argument for diversity in practice should arguably be based entirely on logic: that it is good for society, good for business, good for clients and good for every employee to be part of a law

*“ We place diversity and inclusion at the centre of our culture and at the heart of our business as it makes our firm a more rewarding place to work and a more sustainable business*

**Penelope Warne,  
senior partner, CMS**

firm where D&I are integral to everything that firm does. By avoiding group think, they encourage a spectrum of ideas, opinions and talents.

As Penelope Warne, senior partner of CMS, puts it: ‘We place diversity and inclusion at the centre of our culture and at the heart of our business as it makes our firm a more rewarding place to work and a more sustainable business.’

#### **Change takes time**

So, what do firms perceive as their biggest D&I challenge?

‘It is difficult to highlight one challenge as an individual’s

perspective on what the greatest challenge is will be impacted by multiple factors including where they work, their role, background etc,’ says Helen Ouseley, global head of Diversity & Inclusion at Freshfields Bruckhaus Deringer. ‘That said, like many organisations, we are focused on increasing the representation of diverse talent (across multiple dimensions) in particular in senior roles.’

Eversheds Sutherland offers a similarly broad sweep: ‘Our biggest challenge is ensuring we are hiring, retaining and promoting great diverse talent throughout the firm. It’s not enough to focus on just one element, but instead to make sure that our practices, processes and our conversations are open and accessible to all.’

According to TLT, ‘There are two primary challenges, which permeate the profession and are entrenched in society: first, the rate at which change can be achieved; and second, directly linked to that, the adverse impact on those who are eager for that change in the sense of the speed of change causing frustration or (worse) apathy.’



HFW narrows the point to one word: ‘Time. We are all eager to see meaningful positive change, and we have made real progress – particularly in recent years. But these changes take time, so it will be a journey for us, like it is for all law firms. We just have to keep focused and keep pushing.’  
Gowling WLG notes: ‘Progress isn’t as quick as we want it to be.’ Shoosmiths adds: ‘It can be disheartening when progress feels slow, but it can (and will) take time for meaningful change to happen.’

**Data problems**

Beyond time, data is another common problem. One top 20 firm declined to participate in this report, explaining that: ‘We’re in the middle of collecting workforce diversity data which will inform our subsequent global D&I strategy so we cannot comment.’  
DWF also highlights data collection as its biggest challenge: ‘To help us understand more about the make-up of our workforce, interpret pay gap data and identify whether our D&I strategy and practices are having a positive impact, we rely on collecting people diversity data.’ The same challenge applies

*“ Gathering and using data to measure progress and to respond to client requests for information about the diversity of the teams working on their matters can be very challenging*

*Susan Bright, global managing partner for diversity and inclusion, Hogan Lovells*

at Shakespeare Martineau: ‘Improving our data quality so that we have a holistic and complete view of diversity within our firm, not only across the business, but throughout our recruitment pipeline as well; we can’t improve what we don’t measure.’

Susan Bright, global managing partner for diversity & inclusion at Hogan Lovells, explains the wider problem: ‘The biggest challenge is about embedding a culture of diversity and inclusion across a global organisation. Whilst we

have an overarching global D&I plan, one size does not fit all as we deliver that plan in our offices around the world. In practical terms, gathering and using data to measure progress and to respond to client requests for information about the diversity of the teams working on their matters can be very challenging, indeed it is not permitted in certain countries.’

Among several firms to highlight the progress of women to partnership as a big problem, Hill Dickinson notes: ‘In the legal sector we see more women qualifying as associates, as more women are now graduating from law school than men. However, we are not seeing this translate into partnership numbers at the same rate.’  
Fieldfisher broadens the theme to include BAME associates: ‘Our biggest D&I challenge is the one that most other large firms likely face – ensuring that we continue to retain and promote our diverse talent as they make their way through the pipeline to partnership.’

**Ethnic challenge**

Relatively few firms openly admit that the number of BAME lawyers in their ranks

is insufficient; those that do deserve credit for their candour. Osborne Clarke is one that does: 'In the short term, the biggest challenge lies in increasing the representation of ethnic minorities at all levels of the firm.' No hyperbole or flannel here, just plain fact. The same is true at CMS, one of the world's top 10 firms by size: 'Representation of ethnic minorities is our biggest challenge. We have made progress at entry level however there is a lack of representation at more senior level which we are seeking to address.'

Among the finest legal minds in the upper echelons of the Bar, considerable anxiety exists about committing their thoughts

*“ Improving our racial diversity within chambers, particularly at a senior level, is our biggest challenge*

*Doughty Street Chambers*

to print on the subject. Despite several conversations with the highest ranked commercial chambers, fear of saying something inappropriate or being perceived as not doing enough outweighed the desire for change which clearly exists. Painfully aware that they fall short on BAME representation,

the shortage of Black faces in most of the top 20 sets is all too apparent when reviewing the website photos of their QCs and juniors.

Credit must also go to 39 Essex Street, Doughty Street Chambers and Serle Court for putting their collective heads above the parapet.

'The main challenge we face in promoting D&I is the size of our Chambers and its international nature,' according to 39 Essex Street. 'First, this makes it challenging to ensure full commitment and engagement from all members, across all practice groups and regions. Second, the enthusiasm for initiatives amongst our members can be numerous and wide



## Ambitious targets

Myriad sets of data on law firm diversity are now created. Published figures for gender diversity show that, on aggregate, women comprise roughly half of all lawyers at the largest firms and just over a quarter of their partners. Between the big firms, there is little variation in the gender stats: they benchmark themselves against each other with a keen eye on how they will appear in published league tables. But the same does not yet apply to BAME numbers, which are more variable: although 16 per cent of lawyers and 8 per cent of partners are the overall averages among the largest firms, several of them fall below the 5 per cent threshold in BAME partners.

Behind these figures, of course, there can be some sleight of hand. Analysis of the detail across many firms shows that British Asian lawyers are notably overrepresented and Black lawyers significantly underrepresented. As outlined earlier in this report, while UK-based BAME partner numbers at Magic Circle firms range between 6 and 12 per cent, only 1 per cent of them are Black: eight out of 800+ partners in total.

More published data inevitably generates more ambitious targets. Although some firms choose not to publish them – 'We are focused on getting the processes right and not on targets', says Fieldfisher – many do. 'At Hogan Lovells, we understand that what gets measured, gets done,' says Susan Bright, the firm's global managing partner for diversity & inclusion. But recent history shows that diversity targets have a mixed track record when it comes to meeting them. For example, when Ashurst recently missed its gender diversity target (a 33 per cent female

partnership) for the second time, the firm decided to set more targets with deferred dates. Nevertheless, a swath of law firms is now making huge diversity commitments in the near term. Among respondents to this report, these include:

### Law firms

- CMS – 35% of offers to BAME candidates by 2023
- Freshfields (global targets 2021-26) – new partners at least 40% women, doubling the number of Black associates; LGBTQ+ global partnership target of at least 5%
- Gowling WLG – 30% female partners by 2026
- DWF – at least 10% BAME representation across senior leadership positions by 2022
- Eversheds Sutherland – 14% 'ethnicity representation' across the UK population (employees and partners) by 2022 and 10% 'ethnicity partner representation' by 2025
- Hogan Lovells – 30% women partners globally by 2022 (achieved this year in the UK) + 15% racial/ethnic minority partners by 2025 and 4% LGBTQ+ partners by 2025 (both US/UK only given legal restrictions elsewhere)
- Shoosmiths – 33% female representation at partner level by 2025

### The Bar

- Doughty Street Chambers – 'We want 50% of our barristers and staff to be female and 40% to be from Black and Ethnic Minority groups'



ranging, which creates resourcing and priority issues.'

Doughty Street Chambers is more succinct and direct: 'Improving our racial diversity within chambers, particularly at a senior level, is our biggest challenge.' Serle Court develops the point: 'In respect of recruitment, it's about persuading more women and more people from ethnic minorities, particularly from Black communities, to apply for pupillage.'

Although Freshfields and BCLP highlight their success, respectively, of their Stephen Lawrence Scholarships and Race for Change, both of which aim to increase Black representation in their firms, Serle Court was the only interviewee for this report to identify Black recruitment specifically as their biggest challenge. In reality, while they offer multiple alternatives, this is undoubtedly the single biggest challenge for most barristers' chambers and commercial law firms. Regrettably, they simply do not want to admit it.

**Strategies and solutions**

The amount of information provided by respondents to this report extends to more than 50,000 words, providing ample evidence of the extraordinary efforts being made by many firms to manage their assorted diversity challenges. A great deal of strategic thought is manifestly being applied which should result in much greater diversity being achieved by most of the report's participant firms.

Elsewhere, a few firms produced answers that sound good, but perhaps lack substance. Reproducing a couple of these, verbatim, may help to show why greater clarity is needed.

One firm states: 'Our D&I strategies start with benchmarking our performance in an area, or making a relevant pledge, then using frameworks or action plans to build on our progress to date. These actions must be structurally sound, but it will only work if we're also looking holistically across the business to identify

▲ **Many firms are making extraordinary efforts to manage their assorted diversity challenges**

improvements, and remove any barriers, from our practices and processes.' Another firm offers the following strategic priority: 'To continue our focus on learning from our diverse workforce, being brave with our inclusion conversations and challenging ourselves on the actions we take.'

**Table one**

Hiring year	BCLP % Training Contract offers to Black applicants
2016	3%
2017	7%
2018	3%
2019	13%
2020	13%

**Table two**

Hiring year	BCLP: % overall Training Contract offers to applicants with 1+ flags
2017	N/A (system not in place)
2018	21%
2019	36%
2020	50%

An example of a firm that has clearly got its strategy right is BCLP. Neither time nor data challenges have held the firm back in making significant progress. In 2015, BCLP initiated Race for Change to increase Black representation. Aimed at Black undergraduates and graduates, Race for Change is a 1.5 day programme which offers access to role models, networking and ‘candid guidance’ on applying for vacation schemes and training contracts. Now in its fifth year, Race for Change has developed into a flagship diversity programme, attracting over 500 Black aspiring lawyers since inception. The data shows that it works (see table one).

In 2018, BCLP also introduced “flags” to indicate

*“ Centrally led diversity initiatives, campaigns and programmes only go so far. A priority is ensuring that our people feel included, respected and treated fairly each and every day*

**BCLP**

socioeconomic disadvantage, transforming its entry level hiring by identifying high potential applicants from lower socioeconomic groups. Among other things, the flags compare A-Level grades attained by each candidate with the average

**BCLP has transformed its entry level hiring by identifying high potential applicants from lower socioeconomic groups ▼**

A-Level performance at their school/college: a measure of outperformance which helps high performing candidates from poor performing schools to stand out. The results speak for themselves (see table two).

Other firms may deploy comparable strategies which produce equally impressive results, but for any firm seeking to formulate a strategy that will improve their diversity with tangible results, the BCLP blueprint may be worth emulating.

As the firm itself notes: ‘Centrally led diversity initiatives, campaigns and programmes only go so far. A priority is ensuring that our people feel included, respected and treated fairly each and every day.’



# ‘Law firms are not looking in the right places’

*Netanya Clixby* tells Reports Legal that firms need to look harder in their search for diverse legal talent



By Flo Anderson

As co-founder of the London Bisexual Network, a member of the Law Society’s LGBT+ Lawyers Division Committee and a Trustee of Open For Business (an LGBT+ rights charity), the spotlight on diversity in the legal profession is close to Netanya Clixby’s heart. ‘Rather than trying to get a one size fits all, it has to be iterative,’ she says. As a member of both the Ethnic Minority (EM) and LGBT+ communities, Clixby has been vocal about her experiences as a ‘minority within a minority’ in the legal profession. Her commitment to diversity and inclusion (D&I) within the legal profession has most recently been recognised by being shortlisted as a finalist in the UK Diversity Legal Award’s ‘BSN In-house Lawyer of the Year’ category.

In interview, she is quick to commend the flourishing LGBT+ networks at her previous firms, Latham & Watkins and Simmons & Simmons, explaining that both are ‘very focused on LGBT+ inclusion’. However, Clixby’s assertion that ‘I always had that anchor in the LGBT+ networks’ perhaps reveals the inadequacy of EM networks within law. Addressing the intersectionality of these protected characteristics, Clixby has written about the experiences of EM LGBT+ lawyers. She explains that a common

challenge facing these individuals is that their EM identity is often not as accepted as their LGBT+ identity in traditionally non-diverse working environments, such as law firms. Stonewall research shows that 51% of EM LGBT+ people have experienced discrimination from other LGBT+ people because of their ethnicity.

## ‘Not my cup of tea’

Arguing that ‘background worries about communication style’ can lead to EM LGBT+ employees suffering from ‘imposter syndrome’, Clixby relays an experience where she received a piece of formal feedback as the only non-white junior in the team that read, ‘Netanya does great work, she is just not quite my cup of tea’. Incidents such as this signal the work that needs to be done to tackle unconscious bias and root out the corporate notion of a ‘type’ of employee, ‘because it should never get in somebody’s formal appraisal that they do excellent work, they just aren’t your ‘type’ of person,’ she says.

Clixby’s argument is that without active encouragement and celebration of different experiences and backgrounds within corporate culture, organisations slip into creating and pursuing a monolithic type of employee. This ‘type’ then remains perpetuated through unconscious bias and a lack of diverse role models, which tend to culminate in non-diverse

## Netanya Clixby CV

Parrs Wood Technology College, Manchester (1999-2006)

Philosophy and Biblical Studies degree, University of St Andrews (2007-11)

GDL, LPC, MBA, BPP University (2012-18)

Legal Contractor, D2Legal Technologies, seconded to Credit Suisse (2014)

Trainee Solicitor to Associate – Derivatives & Structured finance, Simmons & Simmons (2015-17)

Associate – Derivatives & Structured Finance, Latham & Watkins (2017-20), including secondment to Deutsche Bank (2019-20)

Legal Counsel, G-Research (2020-21)

candidates being more likely to succeed at interview stage and beyond, as ‘when you create a type, you simultaneously create a hostile environment’ for the ‘other’ she explains. According to Netanya, diversity in an organisation is important, not just because it is the right thing to do. According to a 2018 McKinsey report, organisations that are more ethnically diverse are 33% more likely to experience above average profitability, she explains. In short, diverse organisations make more money.

## Being visible

Nevertheless, hope remains in Clixby’s take on diversity in law firms. In a February 2021 article she wrote for the Law Society Gazette, she observed that progress has been made since the peak of the Black Lives Matter (BLM) movement last summer: ‘Conversations are now taking place and employers are willing to acknowledge the existence of the issue’ of retention and underrepresentation of EM employees.’ She develops the point in interview, presenting BLM as a catalyst for opening up discussions about diversity. ‘After Black Lives Matter, people realised that maybe the reason firms are not finding enough EM talent is that we’re not looking in the right places,’ says Clixby.

The President of the Law Society, Stephanie Boyce, adopts a similar position, urging firms

to stop ‘fishing in the same pool’ of people with protected characteristics as it merely results in a ‘merry go round’ rather than an overall increase in diversity. Education and visible representation are the two avenues that Clixby and Boyce insist will diversify the composition of the legal profession, but both stress the importance of allyship from the higher echelons of law firms.

Clixby emphasises the need for visible role models and the endorsement of network collaborations by senior allies, explaining that ‘knowing that the leaders of the organisation take diversity seriously encourages all employees to do the same’. Participation and involvement from the partnership level is crucial in entrenching EM and LGBT+ networks as ‘key to the organisation’s success, rather than fringe events’. She hopes the movement of these networks into the central core of organisations will lead to a cultural shift in law firms from celebrating a single ‘type’ of employee to diversified ‘types’ of employees. Clixby’s suggestions focus on individuals and their attitude as key to the restructuring of a corporate culture that celebrates different experiences and backgrounds, and which ultimately improves the retention and progression of employees with protected characteristics.

### **Working class, single parent family**

Examining the socioeconomic background of an organisation’s employees when determining levels of diversity is critical, according to Clixby. ‘I grew up in a working class, single-parent family and attended a state school’ she says, maintaining that class can be a more obstructive factor to career progression than race, sexuality or gender identity. The visibility of gender and race



▲ **Netanya Clixby has been vocal about her experiences as a ‘minority within a minority’ in the legal profession**

means that ‘after a major event like Black Lives Matter’, people are forced into participating in a conversation about racism. However, in the UK, she adds, the most uncomfortable conversation to have centres around the ‘socioeconomic issue’ as ‘people who are from a position of privilege’ feel that ‘they’ve done something wrong to be where they are’, which isn’t the case. Acknowledging that certain people are at a disadvantage does not need to diminish the achievements of people from better off backgrounds.

In a recent *Times* article, Trevor Phillips offered a similar perspective, arguing that the ‘increasingly theatrical transfer of America’s culture wars to Britain is a desperate mistake’ as ‘race matters...but in truth it is what we call “class” that presents the biggest barrier to ambition and talent’. Clixby concurs, referencing an endemic obsession in the UK with American D&I strategies that needs to be overturned in favour of a model that tries to extricate class hierarchy from corporate culture. Whilst approaches must not be transplanted, lessons can be learnt, she suggests.

Having worked at both US and UK firms, Clixby speaks highly

of the ‘flat structure’ approach at US firms. She explains: ‘If you can do the job well, it’s irrelevant whether you went to the right public school, or you speak in the right way [because] the focus is on your performance in the job.’ This also applies at partner level, which helps to foster better communication, she says. Comparing this flat structure to the tiered formation of some UK firms, Clixby notes: ‘Some are still fixated on a hierarchical structure, where as a junior you don’t speak to the partner, you speak to a senior associate, who speaks to a managing associate, who speaks to a partner. It’s a structure that is very slow to react to any changes.’

### **Onus on firms: ‘take inspiration’**

Clixby maintains that the onus is on firms rather than minority individuals to create more inclusive working environments that are not merely focused on the entry of diverse candidates to their firms, but crucially their journey within them. She urges organisations ‘to look inward and take inspiration from other places, rather than just trying to apply it’, proposing collaboration between EM and LGBT+ networks, and an increase in the number of visible role models.

All these measures must be supported by senior allies, she suggests, to speed up the introduction of change as corporate culture inches towards a more open and ‘flat’ environment. Clixby believes that this shift will ‘go beyond impacting those who are EM and LGBT’ and improve socioeconomic diversity as the ‘benefits of creating an inclusive working environment is that it demonstrates that the organisation is one that values employees as individuals’. This has an impact on the wellbeing of everyone within an organisation, she concludes, not just the diverse employees.

# ‘Some parts of the Bar have a diversity problem’

Chair of the Bar, *Derek Sweeting QC*, tells *Dominic Carman* that the Bar needs to reflect society

As a teenager, I used to live above a set of chambers in Lincoln’s Inn where all the barristers were Black. It was explained to me that they were simply not accepted at most other chambers: in effect, an unstated colour bar still applied. This was in 1981 when I first met Lord Denning, then Master of the Rolls, shortly before his book *What Next in the Law* was published. In it, he wrote: “The underlying assumption is that all citizens are sufficiently qualified to serve on a jury. I do not agree. The English are no longer a homogeneous race. They are white and black, coloured and brown. They no longer share the same standards of conduct. Some of them come from countries where bribery and graft are accepted as an integral part of life and where stealing is a virtue so long as you are not found out... They will never accept the word of a policeman against one of their own.” Denning resigned shortly after it was published. At the time, there were no BAME MPs or judges.

Thankfully, things have moved on a very long way in the past 40 years.

The current Chair of the Bar, Derek Sweeting QC, explains that ‘some chambers have got the most diverse intakes they have ever had this year over the course of the pandemic.’ He adds: ‘Many chambers have broad diversity and operate in a very inclusive



way. It's been done successfully in many sets: a lot of thought has gone into making sure that there aren't invisible barriers to people applying from diverse backgrounds. The problem is that's not true of every set of chambers.'

Sweeting suggests that the Bar Council can put best practice into chambers around diversity issues, 'leading the way in terms of what we think chambers need to do, to make sure that they are both diverse and inclusive. It's a leadership role. We can set the agenda, set the sort of standards that we would like to see and which are necessary to keep progress moving forward in relation to all of the issues around diversity and inclusion.'

Despite some progress, he argues: 'It's a societal problem: there is no top 50 UK company in which there is a Black member of the board. The problems are not just about encouraging people to enter a profession, the real issues are around their journey after that and whether there are glass ceilings, whether there is fairness and equality as you go through life at work. That plainly isn't the case.'

### **Supreme Court – absence of female QCs**

Gender diversity also remains an issue, he adds. 'In some parts of the Bar, we have a problem,' says Sweeting. 'The retention of women, who get to their mid 30s and then leave, usually to start a family and don't come back. We've got women doing the top jobs in commercial and chancery sets and leading the specialist Bar associations.' He points to Sonia Tolaney QC, Chair of the Commercial Bar Association and Amanda Hardy QC, Chair of the Chancery Bar Association.

Their general view, he says, is that there remains a problem about the allocation of work. 'I've seen it in the Supreme Court:

*“ You’ve got significant numbers of women progressing to silk, in commercial sets, and yet there’s still a perceived disparity when it comes to the most significant work going mostly to men*

*Derek Sweeting QC*

five silks in the front row, not one woman and not one woman sitting behind,' says Sweeting. You can see it in City firms and in the way it plays out with who gets to appear in the top cases.'

He explains: 'You've got significant numbers of women progressing to silk, in commercial sets, and yet there's still a perceived disparity when it comes to the most significant work going mostly to men. Sometimes, it's said that's a client choice, that solicitors are giving clients the ultimate choice of which barrister: clients are selecting men more often than not. The idea that you might publish stats, or have a long hard look at who you're instructing and whether there is some implicit bias might be overdue.'

### **Pioneers essential**

The importance of women being visible at the top and doing work at the top end is vital, argues Sweeting. 'Seeing role models ahead of you is something which can't be underestimated, he says. 'It was true for many women who saw pioneers such as Rose Heilbron. You need those pioneers to pave the way – they can persuade people who may be wavering that it's for them. It's much more difficult if you don't have anyone who looks like you or comes from the same

background at the top.'

For those who may regard diversity as a box-ticking exercise, Sweeting offers the following critique: 'It's a frame of mind that you still come across, and was very prevalent – that it's all about numbers. Once there was a representative number of women, 50/50 – the Bar achieved that in terms of entrance some time ago – that you could somehow say: job done. That's plainly wrong because it leaves out two things: 1) The forgotten twin of diversity is inclusion – the fact that there are an equal number of women in a set of chambers doesn't mean they feel comfortable there. 2) Looking at diversity as if it's a snapshot at the entry point to the profession underplays the extent of the problems, which women and minorities face in terms of progressing through the profession.'

Sweeting identifies unique structural problems which impede the Bar's progress on diversity. 'Most people in leadership positions acknowledge that the Bar needs to reflect society, as does the judiciary,' he says. 'But most members of the Bar are busy concentrating on their own practice. The bandwidth they have to address problems is sometimes limited. You need to make a compelling case for real change.'

### **Telling chambers what to do: very difficult**

He develops the point: 'Individual barristers are self-employed, their chambers are aggregations of people, each with their own business. Much of the decision-making is part-and-parcel of running those businesses. Chambers are recruiting against each other, and with solicitors, to get the best people. The idea that we can tell chambers what to do is very difficult. We have to be much more subtle in terms of what the role of the Bar Council has, and what the operations



of chambers involve in terms of recruitment and getting work.'

Recruitment is another challenge: far too many people qualifying as barristers with too few vacancies available.

There's a problem about recruitment structures at the Bar because we have many people qualifying as barristers, but very few people are recruited in each set, just over 400 a year across the entire Bar,' says Sweeting 'We can look carefully at how we train people. I favour deferring the point at which people get called – that would have a salutary effect.'

He also believes that barristers chambers have much to learn from how law firms approach the issue. 'We need to ensure that we're not operating recruitment procedures, which, however well intended, incorporate barriers to applicants from the widest possible range,' he says. 'If people from ethnic minority backgrounds look at some

*“ I've seen it in the Supreme Court: five silks in the front row, not one woman and not one woman sitting behind*

**Derek Sweeting QC**

chambers' profiles online, it must be quite daunting if they don't see anyone who looks like them. We could learn a lot from law firms, who, in many instances, start their recruitment process on a completely blind basis, so they don't know about people's educational background. They just use a reference number.'

**Planting seeds**

So what can the Bar Council do? 'We can plant a lot of seeds: we know this is a long process, as we've seen with gender,' says Sweeting. 'The success we've

had is not something you get overnight. He points to The Bar Council's new Leadership Programme which provides a unique opportunity for 36 barristers, who have between seven and 15 years of practice, 'to learn more about themselves as leaders, network with a cohort of leaders, and gain the confidence, skills and insights to shape the culture of the Bar.' The programme aims to facilitate 'a powerful network of new leaders, now and in the future.'

According to Sweeting, the programme 'takes people from diverse backgrounds who are going to be, we hope, future leaders at the Bar. It will run annually. We're just coming to the end of the first year, producing a cadre of people, who will be the leaders and proponents for change that we want to see around diversity.'

The events of 2020 also served as a wake-up call. 'Following the killing of George Floyd, we set up



a race working group,' he says. 'It uses resources and inputs of the Bar Council, convening many groups across the Bar, like the Black Barristers' Network, who do work in this space – often young members of the Bar – and brings them together in one place where we can coordinate our activities. We ensure that they are assisted and resourced.'

#### **Good intentions not enough**

Concentrating on social mobility is also important, says Sweeting. 'In addressing issues around race and ethnicity, you're often tackling social mobility,' he says. 'It's often economically grounded. If you've got to pay £19,000 to do the BPTC and the prospects of getting pupillage are low, then it's likely to dissuade people from economically disadvantaged backgrounds from applying.'

What is the overall value of diversity at the Bar and to the administration of justice? 'Once people from different backgrounds are within an institution at senior levels, they bring all the things which are the concomitance of having diversity and a breadth of background being represented,' says Sweeting. 'You end up with a better organisation. The more diverse thinking you have from people with different life experiences, the better outcomes you get. Nowhere could that be more true than access to justice, because we're providing something to society as a whole. If we're providing it on the basis of a particular prism – male and white – then we're not going to end up with the best outcomes.' It is the antithesis of what Denning wrote nearly 40 years ago.

And Sweeting's message to the Bar? 'We know that good intentions aren't enough. We need to try to take real action to secure change.'

# ‘Racism is often subtle’

If you happen to be Black, you’re twice as likely to leave the profession earlier than your white counterparts – this must change, says Law Society president, *I. Stephanie Boyce*



According to her biography, I. Stephanie Boyce is the sixth female, the first Black office holder, the first person of colour and the second in-house solicitor in almost fifty years to become president of the Law Society of England and Wales.

To reach a position where she represents 155,000 practising solicitors, Boyce has learned a lot about persistence: she stood for election four times as Law Society deputy vice-president before she was eventually

voted in three years ago. In March 2021, she finally became president.

‘When I was putting myself forward, the thing that came to mind wasn’t the fact that I was going to be the first Black office holder, or the first person of colour,’ says Boyce. ‘In my mind, it was because I was the best person for the job. And each time I put myself forward, I absolutely believed that. But coupled with that, was the fact that I had to present myself as the best person for the job, and

▲ **Stephanie Boyce is the first Black office holder and the first person of colour to become president of the Law Society of England and Wales**

no doubt, other unconscious biases played into that.’

Her vision is unambiguous: ‘This must be a profession, where regardless of your background, your gender, your sexuality, your colour, your race, your age – any of these characteristics – the determinants must be: ability, aptitude, and nothing else. It must be a profession that welcomes everyone, and really, truly provides for equality of opportunity.’

Born in 1972, Boyce was brought up in a single-parent

household on a council estate in Aylesbury. During her adult life much has changed: in 1990, there were only 709 BAME solicitors in England and Wales, compared with 20,675 in 2019. Back in the early 1980s, less than 4,000 women held a solicitors' practising certificate. Forty years on, that figure has increased to 75,764. As the legal profession continues to grow, it is becoming more diverse.

### Very long way to go

Currently, just over 52 per cent of practising solicitors are women and a remarkable 63 per cent of new entrants to the profession are female. The law, like medicine, is soon set to become a profession where women significantly outnumber men. Meanwhile, 17.5 per cent of solicitors now come from a Black Asian Minority Ethnic (BAME) background, compared to just 4 per cent 25 years ago.

Notwithstanding this progress, she notes, diversity in law still has a very long way to go. 'I've seen the profession evolve and develop over the last 20 years,' she says. 'But it should not have taken almost 200 years of the Law Society's history to have a person of colour become president.'

On the improved trajectory of women and BAME solicitors, she fully recognises that much more change is still necessary. 'We're not still seeing those figures translate into the senior end of the profession, all roads lead back to the senior end of the profession,' she says. 'We (the Law Society) must be the driver, the encourager. One of the things we must do is to encourage firms and organisations to address the retention gaps, the gaps that we see mid-career, the drop off that we see amongst females, that we see amongst BAME solicitors, as to why they're not

*“ We need to break down the myths about what a solicitor looks like, about what a legal professional looks like, what they sound like*

being retained and why they're not progressing through the profession.'

### More inclusion

Boyce sees retention rather than hiring as a bigger challenge. 'If you happen to be Black, you are twice as likely to leave the profession earlier than your white counterparts. If you intersect that with other characteristics, such as gender, sexuality, and so forth, then those barriers become even greater.'

**Stephanie Boyce speaking alongside Hillary Clinton at London Tech Week ▼**

She explains why being president can help to address problem. 'We need to break down the myths about what a solicitor looks like, about what a legal professional looks like, what they sound like, the background they should come from, even down to the university that they should go to,' says Boyce forcefully. 'My elevation to this role is such a great opportunity to use this platform as a reminder that we don't all look the same, sound the same, nor do we come from the same background. The legal profession needs to use this time to investigate, to listen and to identify the actions we need to take to build a more inclusive profession.'

The relative absence of BAME judges is an issue that matters to Boyce. Since they are at the apex of the legal system, they are emblematic of how the legal system is perceived by the public. Take the Supreme Court: ▶



comprised of 12 judges, two of whom are now female – Lady Arden and Lady Rose. There are no BAME judges. In the Supreme Court’s 12-year history, there never has been. Among the 35 judges in the Court of Appeal, there are 26 men and nine women. In 2017, Lord Justice Singh became the first, and is still the only, BAME person ever to be appointed as a Justice of Appeal.

Just 1 per cent of England and Wales’s judiciary is Black. Despite an increasingly diverse pool of applicants, that figure has not shifted since 2014, according to official figures published by the government in July. Over the same time period, the number of Asian judges has risen from 3 to 5 per cent, and for mixed ethnicity, from 1 to 2 per cent. Meanwhile, 34 per cent of judges are now women (24 per cent in 2014).

**Senior Black judges needed**

Although judicial appointments are technically outside its remit, ‘the Law Society has been quite vocal about the lack of judicial diversity, and what more needs to be done,’ says Boyce. ‘It’s absolutely important that we have visible role models (in senior positions in the judiciary).’ She would like to see a clear roadmap that outlines how swifter progress in judicial diversity will be achieved.

In office, Boyce’s mission is clear. ‘My intention is to leave this profession more diverse and inclusive than the one I entered but this must be a shared ambition with each and every one of us playing our part,’ she says. ‘When I first said that, people used to ask: So, what are you going to do, how are you going to do that? My pushback was and is: It’s a call to action, it’s what are we going to do, and it must be something that we all sign up to. We start to





take a stance – where we see a behaviour that is not conducive to equality of opportunity, or makes others feel unwanted, or uncomfortable – we stick our heads above the parapet and say: That it is not right, it's not okay. That's how we start to effect change.'

Although she does not use the phrase 'white privilege', Boyce describes what it means not to have it. 'For many people from disadvantaged backgrounds, entering the legal profession can be difficult, if not almost impossible,' she says. 'There are no pre-existing networks, because you haven't had access to those individuals who make up those networks, from which mentors might be drawn and work experience can be accessed.'

Last summer's events in the United States have served to change the landscape and bring some of these issues into sharper focus, suggests Boyce. 'What the death of George Floyd and the subsequent Black Lives Matter movement have done is to bring to the fore the systemic

*“ There are no BAME judges in the Supreme Court... In its 12-year history, there never has been*

inequalities that exist,' she says. 'It's made us take a look within our own homes, our metaphoric homes, as to what is going on. Some of us have had to ask ourselves some really soul-searching questions about some of the systemic inequalities that exist within all aspects of our society. Sadly, the legal profession is no exception to that. Racism in the workplace is often subtle, it results in unconscious or implicit bias in the culture, policies, or processes.'

#### **Advice to managing partners**

I ask Boyce to imagine that she is approached by a managing partner of a leading law firm who is worried about the absence of diversity in their law firm. The managing partner asks: what's

the best strategic advice you can give me?

So what advice would she give?

'Take time to understand what the particular problem is in their business, look at their data, analyse their data,' says Boyce. What is it telling them? What does the evidence show? And what have they done to successfully create change? And if it's not working, don't be scared to try something different, to do something different. Think about how they're evaluating the impact in delivering their strategy. Who are they asking? Where's the succession pipeline? Where are they advertising? How are they advertising? What does their website look like? Is it reflective? Can I see myself working there?'

For lots of law firms, notes Boyce, it's a journey. She can envisage a point potentially being reached when diversity will no longer be an issue. 'Of course, it's going to be a defining moment when we get there,' she says. 'But my concern is: how long will we take to get there?'

# Reports Legal

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The Diversity Report is the latest in a series of reports examining the business of law in diverse legal markets. Each report will combine an economic overview with substantive legal market analysis for senior business lawyers advising across different sectors and practice areas: from banking, capital markets, M&A and FinTech to life sciences, dispute resolution, private equity and TMT.

## About us

Reports Legal is managed by Dominic Carman and James Air, both of whom have considerable experience in these markets. In recognising that most legal publishers now operate behind a paywall, they decided that everything published by Reports Legal will be free for lawyers to access online. There is no paywall.

Dominic has been involved in legal publishing for 30 years in London, New York and Hong Kong. A regular media contributor, he was a legal feature writer for *The Times*. Dominic undertakes diverse projects for international law firms, speaks at events, and judges the British Legal Awards and the Legal Week Innovation Awards.

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