

<b>Institution: University of Westminster</b>
<b>Unit of Assessment: UoA 20</b>
<b>Title of case study: Diversity in the Legal Profession</b>
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>Findings from research by <b>Webley, Duff et al.</b> commissioned by the Legal Services Board (LSB) has led the oversight legal regulator, the LSB, to introduce compulsory diversity monitoring and reporting in all law firms and barristers chambers so as to capture the demographic and diversity profile of lawyers and their staff at all levels and in all sectors of the legal services market. Previously there was no requirement that legal employers collect diversity data on their staff and no requirement that this be made available to regulators. The Legal Services Act 2007 provides the LSB with the power to ensure the diversity of the legal profession; the LSB has indicated that it will use its power to require frontline legal profession regulators to remedy diversity problems within firms and chambers, where they persist over time. Consequently, our research findings have led to the introduction of a data collection tool that has the potential to change the demographic make-up of the legal profession over time.</p>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>In recent years the legal profession in England and Wales has become increasingly diverse and it was assumed that female and BME lawyers would progress according to their individual merit. However statistics demonstrate that the profession is segmented and stratified on gendered, raced and classed lines, suggesting that the opportunities available to young lawyers are not equally distributed. Different career trajectories may have been the result of individual choices, or the availability of opportunities in an individual's first choice field, or a combination of these factors. Insight into the ways in which these factors drive career paths could only be gained through in depth exploration. The Legal Services Board (LSB) therefore commissioned <b>Professor Webley</b> (grant holder; category A staff at Westminster throughout), <b>Duff</b> (Head of Department, category A staff throughout), Professor Sommerlad (University of Birmingham), Professor Muzio (University of Newcastle), and Professor Tomlinson (University of Leeds) to undertake a rigorous and extensive qualitative study of female and BME professionals, at a variety of career stages including pre-entry, in a range of specialisms and sectors, in the North and South of England, to investigate the reasons for these practitioners' career patterns. The team conducted socio-biographical depth interviews with 76 lawyers and would-be lawyers including solicitors, barristers, legal executives, law graduates and law firm diversity managers in 2010.</p> <p>The main themes revealed by our data analysis, included: the fragmentation of the profession and consequent nuanced nature of respondents' experiences; the legacy of the profession's origins and the significance of cultural stereotypes; the importance for career success of personal relations/ bonding, socialising and informal culture and practices relating to mentoring and work allocation; the long hours' culture and emphasis on commitment (rarely defined); and the lack of transparency of some key procedures and practices in some organisations. Our respondents generally accepted that positive changes had taken place and were continuing so to do, partly reflected in the adoption of formal processes in some organisations. Following a review of academic, policy and professional press literatures and in light of our empirical findings, we made a series of recommendations aimed at improving diversity within the legal labour market. These were aimed at both employer organisations and regulators. One of our key recommendations was that law firms and chambers should be required to collect diversity data from their staff and to report the data to the legal regulators so as to permit them to monitor diversity within organisations and across specialisms and sectors. We also made a series of recommendations relating to workload allocation, flexible working, mentoring and diversity training, some of which are being developed by firms and chambers.</p> <p>The LSB project built upon our findings from two previous Law Society Projects. The first was commissioned by the Law Society of England and Wales and was undertaken by <b>Duff and Webley</b> (Westminster) in 2003-04. It was a qualitative study undertaken via small group interviews; women solicitors were interviewed about their reasons for leaving the profession or for having a break in</p>

their period of practice to examine in depth the earlier findings from the Law Society's quantitative study indicating an attrition rate of 3:1 women to male solicitors from the profession. Our findings included the identification of women solicitors' concerns about working conditions: the long hours culture, lack of diversity in working models, and the mechanisms and attributes used to determine promotion and salary. They highlighted career progression issues: the difficulty of changing subject specialism, problems associated with trying to gain employment after even a very short career break, difficulties in achieving billing targets given obfuscatory workload allocation models and the lack of transparency in pay scales. It provided a rich vein of data about the lived experiences of women solicitors that allowed the Law Society to develop their equality and diversity agenda, upon which the LSB has built. The second Law Society project was commissioned in 1998 and was the sixth year of a quantitative cohort study following law students through their training and employment progression (Shiner, **Boon** category a staff until September 2013 and **Duff**). This ground-breaking cohort study allowed Law Society data on entry and progression within the profession to be stratified by gender, ethnicity, background and seniority and shed light on the segmented nature of the solicitors' profession. One of the key findings was the lack of diversity and social mobility within certain sections of the legal profession, which contributed to the Law Society's initiatives in this field, upon which the LSB diversity agenda built.

### 3. References to the research (indicative maximum of six references)

#### Legal Services Board study

- **Our research report** was press launched in a joint launch (University of Westminster and Legal Services Board) on 13<sup>th</sup> October 2010. A copy of our report may be found on the regulator's website at: <https://research.legalservicesboard.org.uk/reports/diversity-of-the-legal-profession/> The report was reissued with a foreword from the CEO of the LSB in 2013 in which he explains how our study led to the introduction of compulsory diversity monitoring in England and Wales: Sommerlad H. & Webley, L., Duff, L. Muzio, D., Tomlinson, J. (2013) *Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices* (London: University of Westminster Law Press) ISBN: 978-0-9927330-0-1.
- **Subsequent article:** Muzio, D. and Tomlinson, J., Duff, L., Sommerlad H., and Webley, L. (2013) 'Structure, Agency and the Career Strategies of Women and BME Individuals in the Legal Profession' Vol 66 (2) *Human Relations* 245-249.

#### The Law Society Women Solicitors Study

- The Law Society published our research report and literature review in their research series: Duff, L. and Webley, L. *Equality and Diversity Women Solicitors Research Study 48 Volume II Qualitative Findings and Literature Review* (London: The Law Society, 2004) ISBN 185328 972 8
- **Subsequent article:** Webley, L. and Duff, L. (2007) 'Women Solicitors as a Barometer for Problems within the Legal Profession – Time to Put Values Before Profits?' Vol. 34 No. 3 *Journal of Law & Society* 374-402 ISSN:0263-323X .

#### The Law Society Cohort Study

- Duff, L., Boon, A. and Shiner, M. *Entry into the Legal Professions: The Law Student Cohort Survey, Year Six* pp.79 (The Law Society, 2000) (ISBN 1 85328 740 7)
- Boon, A., Duff, L. and Shiner, M. 'Career Paths and Choices in a Highly Differentiated Profession: The Position of Newly Qualified Solicitors' (2001) 64:4 *The Modern Law Review* 563-594 (RAE 2001)

### 4. Details of the impact (indicative maximum 750 words)

Our research has emphasised the need for the legal professions to engage with inequality of opportunity as regards entry into and progression within the professions. Our findings indicated that this would likely only be effective, if the legal professions had access to nuanced data that would highlight barriers to entry and advancement, plus a granularity of data that allowed for sectoral comparisons and, for large legal employers, also organisational differences. Our recommendation was that compulsory diversity monitoring and reporting be introduced so as to permit this. Our findings also suggested that diversity monitoring and reporting may also assist in reducing the impact of informal work allocation and promotion processes as firms and organisations began to see the differential promotion rates of women and BME lawyers within their

organisations and sought to remedy these differences.

On publication of our report the LSB held a joint press event with the academic research team to release our findings and gave press interviews indicating that our findings suggested the need for a regulatory response to the diversity problems that we had identified (Crispin Passmore 'The case for diversity: The profession's white male legacy persists' *The Guardian* 13th October 2010 <http://www.guardian.co.uk/law/2010/oct/13/diversity-legal-services-board-research> ). Our report recommendation on diversity monitoring (October 2010) formed part of the LSB 2011 consultation on equality and diversity policy and practice:

[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/open/pdf/diversity\\_consultation\\_publication\\_publish.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/diversity_consultation_publication_publish.pdf) . Following the consultation the Legal Services Board made it compulsory for all legal entities in England and Wales to collect, monitor and report diversity statistics for all staff at all levels through issuing statutory guidance to this effect in July 2011:

[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/decision\\_document\\_diversity\\_and\\_social\\_mobility\\_final.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/decision_document_diversity_and_social_mobility_final.pdf) . In-keeping with our recommendation, all firms and chambers are now required to collect diversity and equality data on age, gender, ethnicity, disability, socio-economic status and sexual orientation by role and to make it available to their front line regulators: The Solicitors Regulation Authority, the Bar Standards Board and CILEX Professional Standards. Aggregated data will be made available to the public and the LSB reserves the right to require the frontline regulators to remedy diversity problems within firms and chambers, where they persist over time.

The introduction of compulsory diversity monitoring and reporting has sparked increased debate in the legal professional press about the factors that contribute to a lack of female representation in the higher levels of the legal profession, and the attrition of BME would-be lawyers as between graduation and professional qualification. Further, it has led to the further development of a range of diversity initiatives that seek to encourage pupils from minority and lower socio-economic groups to aspire to a career in the legal profession, as well as others that develop more systematic mentoring schemes for young lawyers, others that seek to introduce more fair and transparent work allocation systems within law firms: see for example: Katy Dowell 'Freshfields adds socio-economic background to census questions' *The Lawyer* 28<sup>th</sup> February 2011 page 5. There is ongoing coverage about the research in the legal press see for example the Law Society Gazette article 11th April 2012: <http://www.lawgazette.co.uk/news/drinking-and-casual-sexism-still-institutional-top-firms-lsb-research-claims> The Legal Services Board is working in conjunction with the frontline regulators so as to address concerns about equality and diversity within the professions. Thus, our findings have the possibility of reshaping the legal profession, as law firms, barristers chambers and other legal entities are required to both report on and to justify their recruitment and retention of solicitors and barristers with reference to diversity criteria. Lisa Webley (the LSB project grant holder) has subsequently been appointed to the Equality and Diversity Committee of the Law Society, and to the Interlaw Diversity Forum Committee, both of which seek to improve equality of opportunity within the solicitors' profession.

##### 5. Sources to corroborate the impact (indicative maximum of 10 references)

The impact of the Legal Services Board research may be corroborated by the Legal Services Board Research Manager, in addition to:

- **The LSB Consultation Paper** which draws upon our research: [http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/open/pdf/diversity\\_consultation\\_publication\\_publish.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/diversity_consultation_publication_publish.pdf) . It also references our (Duff and Webley's) earlier Law Society research on women solicitors, which was submitted to RAE 2008. The press release of the consultation: [http://www.legalservicesboard.org.uk/news\\_publications/press\\_releases/2010/pdf/20101213\\_workforce\\_transparency2.pdf](http://www.legalservicesboard.org.uk/news_publications/press_releases/2010/pdf/20101213_workforce_transparency2.pdf)
- **The LSB Statutory Guidance** issued post consultation: [http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/decision\\_document\\_diversity\\_and\\_social\\_mobility\\_final.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/decision_document_diversity_and_social_mobility_final.pdf)
- The LSB CEO's foreword to Sommerlad H. & Webley, L., Duff, L. Muzio, D., Tomlinson, J. (2013) *Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices* (London: University of Westminster Law Press) ISBN: 978-0-9927330-

**Impact case study (REF3b)**

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- **Initiatives being taken by large law firms** for example:  
<http://www.herbertsmith.com/AboutUs/DiversityAndInclusion/Diversity+statistics.htm> and  
further: <http://www.legalweek.com/tag/women-in-law> .