

Equality, Diversity and Inclusion: It Starts With Collaboration

This article by Lisa Hart Shepherd, who manages Acritas as vice president of Market Research and Advisory for Thomson Reuters, reviews how the legal industry as a whole is approaching equality, diversity and inclusion issues. Off the back of new research with D&I experts in major law firms, conducted for the General Counsel for Diversity & Inclusion Group, Lisa discusses the ongoing challenges faced, while offering practical guidance for public sector legal teams, as well as ultimately encouraging commitment and cooperation to achieving parity for every individual in the legal profession.

Moving the needle on equality and diversity poses great challenges for the legal industry. Understanding the issues at large is critical to driving meaningful change and being able to facilitate or, even better, instigate action in your own local authority. But collaboration is key. As Acritas, part of Thomson Reuters, uncovered in its latest research into how in-house teams and law firms can improve D&I in the legal industry, partnership lies at the heart of a successful agenda.

No longer can in-house teams criticise law firms on their track record and insist on improvements if they don't help facilitate those efforts. While lawyers and legal teams within local authorities may be at the forefront when it comes to equality and diversity — especially with regard to family-friendly policies, flexible working and more — challenges still exist.

Increasing diversity and creating a more inclusive environment is the responsibility of both sides of the working relationship, but what practical steps can in-house teams take to truly make change?

Before we review which D&I initiatives are most effective and which are more precarious barometers of progress, let's start by affirming the impact of diversity on performance.

Gender-diverse teams perform at a higher level

Acritas compared in-house teams' perceptions of their external teams. Performance ratings were equal whether the team was led by a male partner or a female partner.

Senior legal buyers were asked to rate their external law firms on 12 key performance measures including quality, responsiveness, communication, efficiency, value and more. Satisfaction scores and likelihood to recommend were also reported with no significant difference between male-led and female-led teams. Meanwhile, gender-diverse teams achieved superior performance, according to in-house teams' ratings. Mixed-gender teams significantly outperformed single-gender teams across the full suite of industry-recognised metrics, mentioned above, with the biggest gain in performance for strength of relationships.

In addition, gender diversity benefits all stakeholders. The research highlighted a direct link between diversity and financial success for firms, as gender-diverse teams achieved a 10 percent higher share of the client's spend. McKinsey's cross-industry research on gender diversity similarly showed that companies in the top quartile for gender diversity were 15 percent more likely to achieve higher-than-average financial returns.

So, if diversity has the ability to transform the business of law, what's stopping it?

Gender bias is the number one cause of lack of diversity

Not providing diverse lawyers with as wide a variety of matters and clients, and having less contact and fewer interactions with clients and other partners are just a couple of the biases uncovered in the latest research into what contributes to a lack of diversity.

At the same time, [some measures](#) being implemented by firms to address diversity are actually turning out to be counterproductive. Women-only networks, for example, tend to create deeper silos that isolate women. Similarly, the research found that 59 percent of firms have mentoring programmes in place but concluded that mentoring and coaching actually produced negative correlations. While well-meaning, some mentors can unwittingly give advice that puts women off senior roles.

However, some programmes can be very successful. Networks become much more effective when they are opened up to everyone regardless of gender, and mentoring and coaching can play a crucial role when structured to ensure that quality conversations take place — although it must be emphasised that no programme will be effective when aimed at “fixing women”. Instead, fixing the *system* should be the aim, and only then will it stand a chance of solving some of these deep-rooted issues.

Factors that positively correlate with D&I success

In total, the research study identified 45 levers for improving diversity. The average firm had 25 levers in place and was piloting a further eight. When D&I heads were asked which initiatives they personally felt were the most effective in increasing women’s ability to advance and succeed, the four most-mentioned initiatives were: flexible working, time from the top around work-life balance, clear career paths and having positive female role models within the firm.

However, Acritas also ran a robust statistical analysis, tracking each firm’s retention rate and the proportion of women at partner level and within leadership roles against all 45 of the D&I levers cited. This pinpointed what the firms with superior female retention rates were implementing to good effect: having representative balances of men and women in pitches, RFPs, client meetings and matter teams, and tracking diversity across all levels from practice groups to board level. In short, the most successful firms were embedding specific objectives, targets and processes to ensure inclusion of women in the critical facets of the firm, such as hiring, career development, client work and firm leadership.

What is interesting to note is that these initiatives, and others, are reported as essential to have by the law firms themselves. For in-house teams, measuring a firm’s progress over time and relative to others in the industry can therefore offer a practical way of measuring progress on D&I.

In-house lawyers are a powerful lever of change

Sitting on the buy-side is a powerful position to be in and, when used correctly, has the ability to improve D&I industry-wide.

The vast majority of in-house legal teams are actively asking their outside firms about D&I. But the power they hold as buyers needs to shift to enable rather than burden firms in order to drive meaningful change.

Making progress in D&I needs to be rewarded, and consequences for lack of engagement are needed. The most powerful incentive of all comes through instructions: unless work is removed from firms that fail to change, progress will be stilted.

In-house teams can also help solve the problem by working in more diversity-friendly ways, and encouraging behaviours that can help develop a workplace environment and culture that supports diversity. Pioneered by the Mindful Business Charter initiative (a cross-collaboration project of external and in-house counsel working to remove unnecessary stress in the industry), simple changes that can make a substantial difference to others' well-being include:

- Avoiding imposing unnecessary deadlines
 - Let your firms know at the outset of a matter that you are OK with them pushing back on requests, etc.
 - If sending through a request on a Friday afternoon, make it clear if this can wait until the following week to be delivered
- Applying a traffic light rating to requests
 - Help your lawyers better understand the urgency level and prioritise accordingly
- Hold clear conversations up front about who is on the team and their working days/availability
 - Everyone can then respect individuals' working patterns better (e.g., not sending emails outside of those business hours, or at least being clear in the subject line that a message doesn't need an immediate response)

Help find a way to reduce the D&I reporting burden on law firms

No one is denying that data is still important to track progress and build accountability, but collating the volume and variety of requests demanded from in-house teams makes for onerous work — amplified by the fact that D&I teams within law firms are already stretched on resources to begin with.

With that in mind, in-house teams can work to better align the metrics and reporting they request to a law firm's existing reporting requirements. For example, law firms in the UK have to report on the composition of legal staff to the SRA. Ensuring that the wording of data requests and the time frames you are looking for map with what D&I teams are already compiling will ensure time and resources are not diverted away from implementing the initiatives that will drive change.

The frequency of requests is also an issue. How often in-house teams request metrics can make the reporting process an easy or difficult lift for law firms. In-house teams need to recognise that results are unlikely to change significantly in short periods of time and that if figures are looked at too frequently, fluctuations can appear more drastic. Monitoring metrics should stay firmly focused on the direction of travel, with the general consensus being that reporting requests be limited to once a year (optimally), or twice a year at most.

In-house teams can also look to apply more pressure in the right way, meaning asking firms about how they allocate origination credit, or how they audit their compensation approach (if they do!). As the client, you play a significant role in ensuring that work is funnelled directly into the hands of diverse lawyers.

Benefit for the many

We know that more diverse and inclusive firms tend to be higher performing, which benefits all stakeholders. Yet the legal profession continues to underutilise and lose great talent across gender, ethnicity, sexual orientation, generations, social background and more.

It sits with both every individual and the industry as a collective profession to find and develop the best methods to achieve equality and diversity. After all, it's an endeavour from which everyone stands to benefit.

If you wish to discuss anything in this article or would like to share your own experiences of equality, diversity and inclusion in the workplace, please contact Acritas.

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