

The Diversity Agenda: Lessons and Guidance from the Legal Profession



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Printed by Canon (UK) Ltd, Cockshot Hill, Reigate, RH2 8BF, United Kingdom

ISBN: 978-1-78358-326-3

A catalogue record for this book is available from the British Library

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ARK Group is a division of Wilmington plc. The company is registered in England & Wales with company number 2931372 GB. Registered office: 5th Floor, 10 Whitechapel High Street, London E1 8QS.

VAT Number: GB 899 3725 51.

Contents

| | |
|--|-----------|
| Executive summary | vii |
| About the authors | xi |
| Chapter 1: Where the rubber meets the road – tackling resistance to diversity | 1 |
| <i>By Rosalie Chamberlain, consultant, leadership coach and speaker, and former diversity and inclusion manager of an AmLaw 100 firm</i> | |
| Resistance | 1 |
| Diversity and organizational goals | 2 |
| What's fear got to do with it? | 3 |
| Too few leading the way | 5 |
| Inclusive leadership, bias and individual responsibility | 5 |
| Privilege as a catalyst for inclusion | 8 |
| Conclusion | 10 |
| Chapter 2: Structural equity – key strategies for a successful inclusion initiative | 11 |
| <i>By Sharon E. Jones, internationally recognized expert on diversity and inclusion and the legal profession</i> | |
| Inclusion scorecard | 11 |
| Unconscious bias training | 13 |
| Formal mentoring programs | 14 |
| Formal sponsorship programs | 15 |
| Parental leave policies | 15 |
| On- and off-ramping | 16 |
| Conclusion | 17 |

| | |
|--|---------------|
| Chapter 3: Ahead of the curve – trans inclusion at Hogan Lovells | 19 |
| <i>By Ruth Grant, partner and board member of Hogan Lovells and receiver of the 2016 “Woman Lawyer of the Year” and “Diversity Champion” awards</i> | |
| Background | 20 |
| Getting started | 21 |
| The policy | 22 |
| Policy statement | 22 |
| Trans inclusion training | 24 |
| Impact | 25 |
| Next steps | 26 |
| Chapter 4: Disability, a desirable disadvantage | 29 |
| <i>By Yasmin Sheikh, consultant and vice-chair of Lawyers with Disabilities Division (LDD) at the Law Society</i> | |
| What is a disability? | 29 |
| My story | 29 |
| Reasons for including disability on the diversity agenda | 32 |
| Tips for employers to work in a more inclusive way | 32 |
| What are the tangible benefits? | 36 |
| Practical tips - quick wins | 36 |
| Chapter 5: The power of purpose – retaining women by promoting passion | 39 |
| <i>By Karen J. Johnson-McKewan, partner at Orrick, Herrington & Sutcliffe and winner of the National Association of Women Judges’ Florence K. Murray Award</i> | |
| The revelation | 39 |
| Damping the departures: what isn’t working | 40 |
| A different question: why do women stay? | 41 |
| The promotion of passion | 42 |
| Finding meaning and purpose in the practice of law | 42 |
| Conclusion | 46 |
| Chapter 6: The basics and beyond – how to raise the bar for LGBTQ diversity in the legal profession | 49 |
| <i>By Wesley D. Bizzell, president-elect of the National LGBT Bar Association and senior assistant general counsel for Altria Client Services</i> | |
| Where we are | 50 |
| Advancing to the basics | 52 |

| | |
|---|-----------|
| Going beyond the basics | 54 |
| Conclusion | 58 |
| Chapter 7: The Apollo Project – a global focus on how to create meritocratic workplaces | 63 |
| <i>By Daniel K. Winterfeldt, partner at Reed Smith and founder and chair of the InterLaw Diversity Forum</i> | |
| Introduction to the InterLaw Diversity Forum | 63 |
| Background to the Apollo Project: “diversity 101 isn’t working” | 64 |
| The Apollo Project: driving cultural change for meritocratic workplaces | 65 |
| Apollo Project winning initiative: a case study for cultural change | 66 |
| Chapter 8: “Access to the Bar for All” – so much more than a financial assistance scheme | 71 |
| <i>By Charlotte Ogilvie, marketing and communications executive at Garden Court Chambers</i> | |
| What sparked the scheme? | 72 |
| Setting up the scheme | 72 |
| Funding the scheme | 73 |
| The application process | 73 |
| The scheme | 74 |
| How other chambers or firms can help widen the scheme | 77 |
| Chapter 9: Guidelines for corporate engagement – external LGBT+ issues | 81 |
| <i>By Todd Sears, founder and principal, Out Leadership, and Matt Fouracre, manager, client relations and public policy, Out Leadership</i> | |
| Introduction | 81 |
| Common requests | 83 |
| Best practice framework for evaluating requests | 86 |
| Guidelines | 86 |
| Process ownership | 87 |
| CEO and senior leader engagement | 88 |
| International considerations | 89 |
| Amicus brief best practices | 90 |
| Common pitfalls | 90 |

Executive summary

In 1913, in a case that became infamous, a judge at the British Court of Appeal ruled that women were not considered “persons” and were therefore not entitled to become practicing lawyers. Times have certainly changed since then, and progress is being made in terms of the inclusion of women and other minorities. However, it is still very much the case that lack of diversity – whether that is in terms of age, faith, social mobility, gender, disabilities, sexual orientation, and ethnicity – remains a problem in the legal profession. Indeed, a worrying trend identified in recent years has seen percentages of minorities entering and progressing within the profession either stagnating, decreasing, or showing no significant improvement. In the latest bulletin released by the National Association for Law Placement in February 2018 on women and minorities at law firms, statistics show that the percentage of female associates in 2017 sits below its 2009 level and that growth in the share of African-Americans among associates has been virtually non-existent, peaking in 2008 and followed by a seven-year decline.¹

Considering the current sociopolitical climate, these figures may come as a surprise. Indeed, in both law firms and other businesses, the conversation around organizational diversity is in many ways more fervent, active, and engaged than ever before. Prominent figures in the profession make bold declarations about their belief in the positive contribution increased diversity brings, and firm websites are not considered complete without a visible commitment to improve their inclusivity. It would seem that everyone is aware of the problem, and is vociferous about their attempts to tackle it. However, the numbers show that the needle is barely moving. The legal profession appears to be stuck at the point of discussion, and the measures that have thus far been implemented – which typically include token changes in company policy and written charters and agreements – can more resemble posturing than steps to achieve real change. The challenge, then, for any law firm which recognizes that diversity is a force for innovation and seeks to genuinely make a change, is finding those actions that do make an obvious and

measurable difference. What can be done, and where does one find the practical advice needed to instigate the change?

Packed with constructive guidance and compelling insight from industry experts and thought leaders, *The Diversity Agenda: Lessons and Guidance from the Legal Profession* seeks to provide the answer to these questions. Moving past the identification of an obvious problem, this book will instead offer effective solutions to those endeavoring to maximize their firm's potential through the benefits diversification can bring. *The Diversity Agenda: Lessons and Guidance from the Legal Profession* aims to supply a unique perspective from authors who have experienced institutional challenges and obstacles, providing proactive steps to take in order to negotiate them. Expert advice is also supplemented by real-world examples of pragmatic, effective, and award-winning diversity initiatives that are being pioneered by both international and regional law firms.

In chapter 1, Rosalie Chamberlain – principal of Rosalie Chamberlain Consulting & Coaching, a consultant, leadership coach, and speaker, and former diversity and inclusion Manager of an AmLaw 100 firm – looks at how bias drives negative reaction to the issue of resistance to diversity. She explains the importance of connecting diversity to organizational needs, and that while diversity is a stated focus for the legal industry, inclusion is where the rubber meets the road. She explores the role of inclusive leadership and how understanding privilege can be a catalyst to positively impact organizational inclusiveness.

It is easy to identify a lack of diversity in a firm; the difficulty emerges when trying to establish what the next steps are and what exactly a more inclusive workplace might look like in terms of what it offers to its employees. Chapter 2 sees Sharon E. Jones – an internationally recognized expert and consultant on diversity and inclusion and the legal profession – lay out the key components of a successful inclusion strategy, beginning with the means with which one can measure organizational diversity and moving onto policies and programs that can be implemented to foster and embrace diverse talent.

The team at Hogan Lovells believe that people are at their best when they can be themselves – working together and delivering for their clients. In line with this commitment, the firm has launched a unique trans inclusion initiative, ensuring its trans and transitioning people and the teams they work in are given adequate guidance and support in the workplace. In chapter 3, Ruth Grant – award-winning litigation partner at Hogan Lovells International LLP and a member of the Hogan Lovells board – outlines the background and context of the award-winning initiative, its coverage and impact, and what happens next.

Both psychological and physical ability are often behind the curve when organizational diversity initiatives are discussed. In chapter 4, Yasmin Sheikh – founder of Diverse Matters, a consultancy specializing in disability issues, and former lawyer of 12 years – explores the reasons behind this before proceeding to utilize both her professional expertise and her personal insight as a wheelchair user to offer techniques that bring disability firmly back onto the diversity agenda.

What motivates people to be their best selves when it comes to their work is different for each individual, and in chapter 5, Karen G. Johnson-McKewan – partner at Orrick, Herrington & Sutcliffe, named one of the 100 “Most Influential Women in Bay Area Business” by the *SF Business Times*, and a top female litigator by the *Daily Journal* – argues that the legal profession is missing what drives women to be successful, which accounts for their absence in the higher echelons of firm leadership. Fusing personal insight and quantitative data, Karen maintains that it is passion that firms must aim to inspire in their female lawyers in order to ensure greater rates of engagement and retention.

In chapter 6, Wesley D. Bizzell – senior assistant general counsel for Altria Client Services and president-elect of the National LGBT Bar Association – tackles the issue of being LGBTQ in the legal profession and presents ways in which firms can build opportunities and create pipelines for their staff of differing sexual orientations. Drawing from both his professional expertise and his personal experience, Wesley outlines methods for implementing cultural change and asserts that establishing an open and welcoming working environment is the first proactive step a firm can take. Pragmatic guidance is offered by Wesley with regard to creating conditions in which both employee and wider organizational authenticity is key.

The evidence has repeatedly shown that “diversity 101” – those initial, tentative measures taken by firms thus far to improve their inclusivity – isn’t working. In chapter 7, Reed Smith partner Daniel Winterfeldt delves into the origin and mechanics of the Apollo Project, a global cross-sector initiative for organizations which provides the practical tools needed to better embed more inclusive workplace practices and cultures to promote meritocracy. The Apollo Project – which is an offshoot of the Interlaw Diversity Forum, of which Daniel is founder and chair – seeks out groundbreaking examples of best practice which are backed up by evidence, and then offers these as an “open-source” resource. Some past winners will be highlighted as inspiration for best practice in cultural change, providing a template that can be adapted for different organizations.

Many firms will state their commitment to greater inclusivity and accessibility, but few will actually put in place schemes that command significant resources and input in order to guarantee it. Garden Court Chambers, a leading UK firm based in central London, is the exception. Its pioneering program “Access to the Bar for all” – which won Diversity Initiative of the Year at the 2017 UK Diversity Legal Awards – moves past the traditional one-week shadowing scheme format and aims to tackle the issues faced by young people from underprivileged backgrounds by providing long-term guidance and support in the form of extensive mentoring and funding. In chapter 8, Charlotte Ogilvie, marketing and communications executive, delves into the mechanics, context, and impact of the scheme, providing an inspiring and compelling example for others to follow.

Discerning consumers and top talent increasingly wish to see their values, including support for LGBT+ inclusion, expressed by companies. CEO activism and backlash against the LGBT+ community are both on the rise. As opportunities for businesses to engage on public policy in support of LGBT+ equality multiply, and as corporate leaders face internal and external pressures to act, how can they most effectively decide when and how to proceed? In chapter 9, Todd Sears – founder and principal of Out Leadership, the global LGBT+ business network CEOs trust – discusses how his firm engaged a working group of business leaders from across a spectrum of industries to understand how leading companies evaluate these choices and make decisions, in order to formalize a set of guidelines intended to help businesses of all kinds engage productively and beneficially on LGBT+ equality.

Reference

1. “Women and Minorities at Law Firms – What Has Changed and What Has Not in the Past 25 Years”, *NALP Bulletin*, February 2018. Found at <https://www.nalp.org/0218research> [accessed 16 March 2018].

About the authors

Wesley D. Bizzell serves as assistant general counsel, external affairs and director of political law and ethics programs for Altria Client Services LLC. Overseeing a comprehensive compliance system covering the regulation of government affairs, Wesley provides advice and guidance on political law compliance for more than 75 jurisdictions. Wesley is extremely active in promoting diversity and inclusion within the legal and corporate communities, and is an active member of several of his organization's equality groups and the chair of its Culture, Inclusion and Connection Committee. In 2017, he was named by the *Financial Times* as one of the 100 OUTstanding Leading LGBT+ Corporate Executives, and is a board member for the National LGBT Bar Association, having also recently served as its president-elect.

Rosalie Chamberlain is the director of Rosalie Chamberlain Consulting and Coaching. She is a skilled leadership and executive coach and consultant, having worked extensively with clients in the legal industry, as well as a broad range of corporate, government, and private industries. She served as the diversity and inclusion manager for a national AmLaw 100 firm prior to starting her own consulting and coaching business. Rosalie has more than 18 years of experience working with individuals and groups on leadership development and talent management. She is a member of the Committee for Diversity and Inclusion of the National Association of Legal Administrators (ALA), and is featured as one of several selected Top Lawyer Coaches, powered by Diversity Lab. She is also the author of *Conscious Leadership in the Workplace: A Guidebook to Making a Difference One Person at a Time*, which addresses authentic leadership, with a strong focus on the impact of biases.

Matt Fouracre is the manager of client relations and public policy at Out Leadership, where he oversees client relationships with Out Leadership's member companies around the world and leads public policy efforts. Prior to joining Out Leadership, Matt worked as a congressional staff

assistant and constituent service advocate for former US Senator Mark Udall. Matt received an MA in International Relations from the University of Chicago, with a research focus on international political economy. He earned a BA in International Studies from the University of Denver, and spent a year in the War Studies Department at King's College London.”

Ruth Grant is a litigation partner at Hogan Lovells International LLP and a member of the Hogan Lovells board. Former London managing partner and firm people development partner, she chairs Hogan Lovells' Global Diversity and Inclusion Committee. She is a member of the SRA Equality, Diversity and Inclusion Committee, the WILEF Global Advisory Board and the City of London Law Society Training Committee. She has a particular focus on recruitment of BME and socially disadvantaged graduates and the progression of women and LGBT lawyers in the profession. Ruth received the 2012 Association of Women Solicitors Award for Best Woman Solicitor Retaining and Developing Legal Talent and won “Woman Lawyer of the Year” at The Law Society Excellence Awards 2016. In 2016 she also won the Black Solicitors Network's Diversity Champion Award.

Karen Johnson-McKewan, a partner at Orrick, Herrington & Sutcliffe in San Francisco, specializes in litigation that crosses the boundaries between traditional legal practices. For more than 30 years, she has first-chaired state and federal trials, and arbitrated more than a dozen disputes. She manages intellectual property and commercial matters for companies such as Oracle, NVIDIA, Netflix, VMWare, and Levi Strauss & Co. She has been named one of the 100 “Most Influential Women in Bay Area Business” by the *SF Business Times*, one of the “Top Women Litigators” by the *Daily Journal*, and won the National Association of Women Judges' Florence K. Murray Award for leadership. Most recently, Karen has been named to *The Hollywood Reporter's* 2018 Power Lawyers list for her work on behalf of Netflix.

Sharon E. Jones is an internationally recognized expert, consultant, author, and speaker on diversity and inclusion, unconscious bias, and the legal profession. She is the author of *Mastering the Game: Career Strategies for Success* (2018), designed to explain the unwritten rules for successfully navigating large corporate workplaces for women, minorities, and other diverse individuals. Sharon is also the president of Jones Diversity, Inc., a diversity and inclusion consulting firm which works to

create an inclusive workplace culture. Sharon has practiced law and been a community leader for over 25 years, including positions as a federal prosecutor, with major law firms and with Fortune 500 Corporations. Sharon is a past president of the Black Women Lawyers Association of Chicago and is a graduate of Harvard Law School and Harvard College with a degree in Economics.

Charlotte Ogilvie is the marketing and communications executive at Garden Court Chambers a high-ranking UK barristers' chambers based in central London that is committed to human rights, social justice, and equality. She is a first-class History graduate from the School of Oriental and African Studies, University of London, and has worked across a variety of communications and editorial roles internationally from Bangkok to Amman.

Todd Sears is the founder and principal of Out Leadership, a global business advisory that connects leaders across the world's most influential industries to create business opportunities, cultivate talent, and drive LGBT+ equality forward. Todd began his career as an investment banker before moving to Merrill Lynch to become a financial advisor, where he created the first team of financial advisors on Wall Street to focus on the LGBT community. He then moved into diversity leadership, pioneering equality initiatives first at Merrill Lynch and then at Credit Suisse. Sears serves on the non-profit boards of the Williams Institute of UCLA, The Palette Fund, the Global Equality Fund of the United States Department of State and Lambda Legal, and is a graduate of Duke University.

Yasmin Sheikh is the founder of Diverse Matters, a consultancy specializing in disability issues (both visible and non-visible disabilities) in the workplace. She is also the vice-chair of Lawyers with Disabilities Division (LDD) at the Law Society and also Council member representing LDD. Yasmin helps organizations empower their workforce to be disability confident through her consultancy services, workshops, coaching, and disability-focused events. She is a multi-award-winning speaker at the Professional Speakers' Academy and speaks regularly about diversity with a particular focus on disability at many large organizations. She is a former lawyer of 12 years; having acquired her injury in 2008, she is now a wheelchair user. Yasmin packages her experience, expertise, and knowledge to deliver informative and

transformative workshops and events to both employees and employers to become more confident when it comes to diversity and disability.

Daniel K. Winterfeldt is a partner at Reed Smith and a US securities lawyer with over 18 years of experience, with his practice focusing on representing investment banks and corporate issuers in a wide range of securities transactions. Daniel is also the founder and chair of the InterLaw Diversity Forum, through which he has spearheaded the ground-breaking *Career Progression Report in the Legal Sector*, the Apollo Project to promote business cultural change, and the Purple Reign initiative, which highlights LGBT and straight ally role models and multiple identities. He was named the “Legal Innovator of the Year” at the *Financial Times*’ Innovative Lawyers Awards in 2012 for his work in capital markets and diversity and inclusion.