

## One by one, excuses for lack of diversity in law will run out

### Obligation to reflect racial diversity extends to industry commentators

The legal profession has, in the very recent past, started to take part of the diversity agenda seriously. That 'part' is racial, cultural and ethnic diversity. This recent seriousness doesn't mean things are now fine – not by a long stretch. It does mean that a problem has been accepted, and that action, backed at the highest level, has created the possibility of change. At the very least, any general counsel asking questions about a law firm's commitment to diversity would be justified in raising a sceptical eyebrow when the firm's buy-in to greater diversity is led by anyone from outside senior management.

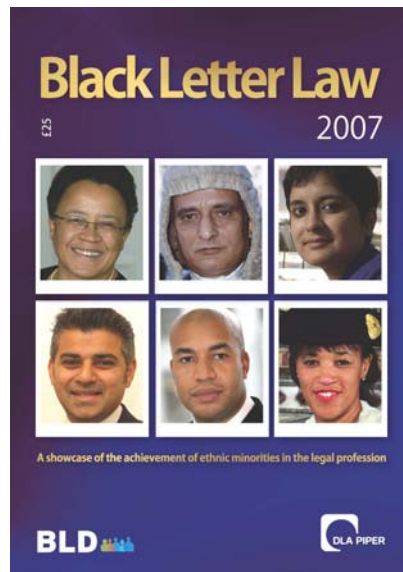
Race shouldn't be the hardest part of the diversity agenda for the legal profession to crack. The poor figures the law turns in for racial diversity clearly cannot be because black and minority ethnic (BME) lawyers are more likely to need different working patterns to be accommodated – a practicality that some employers claim alters their ability to offer working mothers the same opportunities.

Aside from long-term 'outreach' projects – like lawyers working with schools whose pupils are less likely to consider a career in the law – there are three things law firms and legal departments need to make progress on.

First, the working environment needs to feel like a comfortable place for people from a very wide range of backgrounds. For lawyers – educated, well travelled, trained to listen, skilled in problem-solving – this should be the easiest win. The principle can be summarised as 'build it and they will come'. 'Celebration' of diversity is important here – more of that below. The importance of this shouldn't be underestimated, but some harder-edged action is needed.

Secondly, anyone employing lawyers needs to become more adept at fishing in a larger pool. Problems with the supply line that feeds a vacancy can only be blamed to a degree. If our leading universities are not diverse enough, one cannot just shrug shoulders and say, 'What can you do?'; likewise with the law firms that have traditionally provided recruits to leading in-house departments. At entry level, law firms must seriously court candidates from a wider pool than the usual universities. For employers recruiting at a more senior level, as most in-house departments do, there may be a need to draw job descriptions more widely. That has been the response when other kinds of professional shortage have occurred – as we reported last month, person specs are widening in the financial services sector due a shortage of good candidates. The response to a lack of racial diversity should be the same.

Thirdly, clients and the law firms that advise them need to think about how to achieve incremental change. No one expects an overnight transformation – with the hierarchy, as well as the intake, of the legal profession instantly becoming properly representative. But an acceptance that change will not be instant and complete is not a perpetual sick note for anyone wishing to just tread water, hoping that this issue will



go away. If the questions for year one of a diversity strategy are, 'How representative is your intake?', 'Is this a comfortable place for a diverse group of people to work?', and 'Are you looking for candidates in the right places?', then there need to be harder questions that test results in each successive year.

This autumn, it's worth highlighting two examples that move the issue forward. First, Transport for London and London Underground's adviser review deserves credit – not only for looking at the seriousness with which the firms that made the panel take diversity, but also for building a trigger for review into the process by asking for quarterly updates on diversity progress. Their questions also ask firms to separate out the figures for different minorities. This is to be welcomed, as many firms and legal departments meet targets when BME is one heading, but perform very badly when the statistics for lawyers who are black-African or black Afro-Caribbean by background are looked at in isolation.

Secondly, last month saw the publication of Black Letter Law by the Black Lawyers' Directory (BLD). The publication includes the profiles of some well-known figures, but has delved deeper to name lawyers who hold senior positions in all fields but are less well known. Whether you call this 'celebration' or 'visibility', it's a good and important thing. Too many of the people in BLD's publication could easily be ranked in the sort of lists that overlap this one – including lists of leading women lawyers and 'rainmakers' – but aren't. With the publication of Black Letter Law there is one less excuse for those who report on, or lead, the profession to fail to include in their dealings senior lawyers whose background is more representative.

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