INTERIM REVIEW OF WORKFORCE DIVERSITY AND HUMAN RESOURCES POLICY AT THE SOLICITORS REGULATION AUTHORITY

REPORT TO THE EQUALITY IMPLEMENTATION GROUP

Lord Herman Ouseley

October 2011

Interim review of workforce diversity and human resources policy at the Solicitors Regulation Authority

Report for the Equality Implementation Group

1. Purpose

1.1. This report provides a summary of progress made with regard to the achievement of increased workforce diversity since the publication of my original report in 2008 and poses some key questions which I have set out in **Annex 1** for consideration.

1.2. The questions are about the current transformation of the SRA and whether it will deliver the requisite appropriate workforce diversity and inclusive culture.

1.3. I have also made some suggestions on how issues of equality and diversity in the Human Resources and Development directorate of the Law Society Group (HRD) can be addressed to assist with the implementation of equality and diversity policies and strategy.

2. Context

2.1. My report "Independent review into disproportionate regulatory outcomes for BME solicitors" was published in August 2008. A key finding of the review was the need for the SRA to have in place sound HRD policies and processes that would enable it to recruit the best diverse talent and to establish an inclusive culture. Key areas for concern were lack of BME representation at senior levels of the organisation, the committees and Board, lack of training on equality and diversity and a lack of leadership on equality and diversity.

2.2. I am able to state that the SRA rose to the challenge set by the report and published its first Equality and Diversity Strategy in January 2009 which was supported by an ambitious but proportionate and appropriate action plan. The SRA has been publishing quarterly reports on progress, which have been received by the Equality Implementation Group (EIG).[1]

2.3. I undertook an independent review of progress in early 2009 and my progress report, which was published in July 2009, indicated that the SRA had made significant progress in the promotion and progression of equality and diversity. I found that there was visible leadership from the SRA Board and Senior Management team (SMT) on taking forward equality and diversity; the culture was changing and I found the organisation and its staff more open to discuss issues of equality and inclusion as it absorbed the ethos of a learning organisation.

2.4. At the time of carrying out this review on the HRD area of the organisation, the SRA was undergoing large scale internal transformation to ensure that its culture and staff were ready for its transition into becoming an outcomes-focused regulator.

---

[1] The Equality Implementation Group is a group consisting of the Chairs of BME groups representing solicitors and chaired by Lord Herman Ouseley and set up to monitor the implementation of Lord Ouseley's recommendations from the review published in 2008.

2.5.   Therefore, I recognise that my review findings may not be new to the SRA; however, the review provides an opportunity for the SRA to reflect and review its transformation programme to ensure that it is going to achieve the right outcomes in relation to culture and workforce diversity.

3.   The HRD Audit

3.1.   In January 2011, I informed the SRA that I intended to focus my next audit on progress with regard to workforce diversity and HRD in general.

3.2.   At my request, the HRD Director at the time, Lorraine Jones and members of her team attended two EIG meetings to inform us of the progress with regard to equality and diversity. They provided a large volume of information ranging from the HRD business plan to data on recruitment and equality impact assessments. I am grateful for the work the HRD team put into sourcing this information and for their time at these meetings.

3.3.   From the information that was received, it can be seen that equality and diversity is now regarded as a key priority within HRD and is contained in its business plan. A number of policies have been reviewed and equality impact assessments have been carried out. Data collection and monitoring of workforce profile has improved and is now being published internally on a periodic basis.

3.4.   It can also be seen that the HRD team is getting involved in diversity and development events organised by the SRA Diversity and Inclusion team. Overall, the input into making equality and diversity key to HRD appears to be good.

3.5.   However, the amount of work and effort, whilst reassuring, still leaves the difficulty of not being able to measure what progress had been made in terms of improvements in outcomes with regard to HRD policy and practice.

3.6.   The actual progress that has been made since 2008 can be attributed entirely to the work undertaken by the SRA and its Diversity and Inclusion team, which showed, inter-alia, that:-

- There was leadership through the Chief Executive and the SMT on diversity and inclusion.

- There had been a range of training that had been made available to leadership and all staff on equality and diversity. These ranged from bespoke EIA workshops and human rights training to mandatory foundation e-learning on equality and diversity.

- The SRA had been successful in increasing the diversity of its adjudication panel by undertaking a more targeted and positive recruitment campaign.

- It had a behaviour competency framework with equality and diversity competencies integrated, although it was disappointing that equality and diversity had not been reflected in the leadership competency.

- The strategic vision and values included a commitment to fairness and diversity.

3.7.   The SRA, on its own, has made more progress in promoting equality and diversity than that made by relying on the HRD policy framework. The SRA, although independent, is bound by the central HRD policy framework. Whilst the HRD framework now has equality and diversity as a key priority, it is unclear how

HRD is helping the SRA take forward its strategic vision on equality and diversity. I have therefore set out some key questions at **Annex 1** which the SRA leadership need to consider if it is to sustain the progress it has already made with its strategy for the advancement of equality and diversity during a time of huge transformational change.

3.8.   I have set out below some key areas that need urgent attention to ensure that HRD policy and practice is achieving improved outcomes for the SRA on equality and diversity.

3.9.   The SRA published its [Equality Framework](#) in July 2011 thus demonstrating its continued commitment to becoming a fair, transparent and inclusive organisation. The framework includes some challenging and ambitious targets on improving the diversity profile of the organisation over the next two years.

3.10.   For the purpose of this audit, I reviewed the workforce data for the period of January to June 2011, although for comparison I also looked at the data provided for the previous two years. The staff survey findings I have referred to in this report relate to the survey carried out in 2010. In 2010 the survey findings were not broken down by the diversity characteristics which I am informed the SRA intended to request for the survey in 2011. The review included an assessment of other information such as equality impact assessments completed for the same period. Therefore, at the time I submitted my report to the SRA for consideration, it had already in place an action plan to deal with the issues raised by the 2010 survey and were in the process of launching their 2011 staff survey which included further questions around the equality and diversity areas.

4.   Workforce Data - January to June 2011

4.1.   The composition of the workforce is a significant reflection of the SRA's success or otherwise in achieving inclusion and diversity among its employees. Simultaneously, how staff regard the organisation and their commitment to it and its policies impact on morale, performance and effectiveness.

4.2.   In order to assess some aspects of progress to date and to move forward some key actions necessary to assist with the achievements of equality and diversity objectives, the SRA's [workforce data](#) from January to June 2011 and the employee survey data from 2010 are used as reference points.

4.3.   The workforce data showed that there were 689 staff employed by the SRA. Group HRD produces data for the whole of the Law Society, which covers all the essential protected characteristics of age, disability, ethnicity, gender, religion and belief and sexual orientation.

4.4.   A summary of the main diversity characteristics of the SRA workforce are summarised in the following paragraphs.

4.5.   *Overall staff diversity data*

- **Age** – 83% of staff are between the ages of 25-54. There are no staff over the age of 65 due to the current retirement policy. This is being reviewed and may change to meet equality legislation requirements.

- **Disability** – 3.05% of staff class themselves as disabled. This is a slight decrease from 3.68% in the first half of 2009.

- **Ethnicity** – 82% of staff are White, an increase of 0.68% from 2009; 9.43% of

staff are Asian/Asian British; 1.16% are Black/Black British and 1.82% are Mixed. There have been no staff of Chinese origin since 2009.

- **Gender** – nearly 70% of SRA employees are female. This is comparable with all periods from 2009.

- **Religion** – the majority of staff (60%) classified themselves as having no religion, with the next highest group being Christian (33%). Very little change has been recorded from the previous year with slight increases in the number of Sikhs and Muslims employed by the SRA.

- **Sexual Orientation** – a large number of staff (44%) are recorded as unknown. A majority (54%) are heterosexual. There has been an increase since 2009 in the number of bisexual, gay or lesbian staff members but whether this is due to recruitment or increased reporting is not known.

4.6. *Internal job applicants*

- There were 301 internal job applicants in the first half of 2011.

- **Age** – the majority of applications from internal candidates were from 25-34 year olds. This is comparable with 2009 and 2010 data. There were no applicants from the over 65 age group due to the current retirement policy.

- **Disability** – there were only 4 internal applications from disabled individuals in the first half of 2011, a third of the numbers received in 2009, despite an increase in applications overall during 2011.

- **Ethnicity** – 74% were White, a decrease of 3% from 2009. Other ethnic groups have also shown a decrease in applications. There was an increase of 6% of applicants in the unknown group.

- **Gender** – there has been a 2% decrease in applications from females between 2009 and 2011, from 68% to 66%, with the same percentage increase in applications from males.

- **Religion** – as per the overall diversity data, the majority of applications since 2009 are those classified as having no religion. There has been little change in the group classified as having no religion and the Christian group over the period. There have been increases in applications from the Muslim and Hindu groups.

- **Sexual Orientation** – there has been a doubling of applications from bisexual, gay or lesbian groups between 2009 and 2011 and the current figures are comparable with the overall staff demographics.

4.7. *External job applicants*

- There were 314 external job applicants in the first half of 2011.

- **Age** – the data from external applicants replicates that of internal applicants in terms of the trends, with one application received from an applicant over the age of 65.

- **Disability** – the percentage of disabled applicants has remained fairly stable between 2009 and 2011 with about 3% of applicants having a disability.

- **Ethnicity** – 65% of external applicants were White, 8% less than in 2010. 20% of applications were from Asian/Asian British a 5% increase since 2009.

- **Gender** – 60% of applicants were female and 39% were male.

- **Religion** – As per previous years, most external applicants have been from the Christian group or have no religion. There were no Jewish applicants in 2011.

- **Sexual Orientation** – only 19% of external applicants failed to reveal their sexual orientation, far less than internally.

- There is no adequate diversity cross-data analysis about the sexual orientation, age, disability or gender of different ethnic groups or of other possible combinations.

4.8. *Successful internal applicants*

- There were 60 successful internal applicants in the first half of 2011.

- **Age** – 37% of successful applicants were aged 25-34.

- **Disability** – 1 disabled person was successful.

- **Ethnicity** –13% of successful applicants were Asian/Asian British and 78% were White. There were no successful Black/Black British applicants.

- **Gender** – 63% of successful internal applicants were female and 37% male.

- **Religion** – 48% of successful internal applicants had no religion, which is comparable to 2009. As with previous years, Christians account for the second highest intake, and there has been a slight increase in the recruitment of Muslims, Sikhs, Hindus and Buddhists, although the numbers from these groups are very low.

- **Sexual Orientation** – 3% of successful applicants were from the bisexual, gay or lesbian groups.

4.9. *Successful external applicants*

- There were 45 successful external applicants in the first half of 2011.

- **Age** – 36% of successful applicants were aged 25-34, with only 3 successful applicant over the age of 55.

- **Disability** – No disabled applicant was successful in the first part of 2011.

- **Ethnicity** – 62% of successful applicants were White, representative of the overall application data. In 2009 this figure was 83% and so this shows a marked decrease.

- **Gender** – 36% of successful candidates were men.

- **Religion** – 40% of successful applicants were Christian.

- **Sexual Orientation** – there were 7% bisexual, gay or lesbian applicants recruited in 2011, compared with only 1% in 2009.

4.10. *Promotions*

- **Age** – 51% of internal promotions were to those in the 25 - 34 age group compared with 45% in 2009.

- **Disability** – 2 disabled people have received promotions in 2011, compared with none for the same period in 2010.

- **Ethnicity** – 84% of all promoted staff were White, with 11% Asian and 4% Mixed.

- **Gender** – 71% of those receiving a promotion were female, 3% higher than in the last half of 2009.

- **Religion** – 51% of promoted staff were classed as no religion but promotions were received by Sikhs, Hindus, Muslims and Christians in comparable numbers to 2009.

- **Sexual Orientation** – there has been an increase in the gay and lesbian group receiving promotion and in the bisexual group between 2009 and 2011. However, 67% of promotions were still received by heterosexual staff. However, the limited database hinders the production of better quality and purposeful diversity data.

4.11. *Leavers*

- Data relating to leavers is only available for the period June to December 2010 and thus a comparison will not be provided in this instance.

- **Age** – 37% of those leaving the organisation were aged between 55 & 64.

- **Disability** – 3 disabled staff members left the organisation in the last half of 2010.

- **Ethnicity** – Only 3 BME members of staff left the organisation in the last half of 2010.

- **Gender** – 65% of leavers were female.

- **Religion** – 37% of leavers were Christian, and a further 53% had No Religion.

- **Sexual Orientation** – Only 1 person from the gay and lesbian group left the organisation. The remaining leavers were split evenly between heterosexual staff and staf who had not specified their sexual orientation.

4.12. What the data does not adequately reveal is the performance in attracting a more diverse workforce; for instance, with regard to disabled and BME applicants for vacant posts. The figures also indicate that, although there is a good representation of applicants from some BME groups (internal), this is not reflected in those being appointed, therefore it would be pertinent for the SRA to review whether its shortlisting and interview processes are fair and objective.

4.13. There was an overall increase of 6% in the number of 'unknowns' which may explain some of the decreases in applications for specific groups such as for those

who classified their ethnicity as 'black' or 'mixed' For the same period there was an increase of 2% from the Asian ethnic group.

4.14. Overall turnover showed that there were 43 leavers and 45 promotions. BME leavers comprised 7%, with unknown being 7% and white leavers being 86%. The total promotions of 45 comprised 16% BME and 84% white appointments.

4.15. Of the 43 leavers, three were disabled but only two staff with disabilities were promoted.

4.16. Targeting all disadvantaged or under-represented groups to ensure that they are aware of opportunities in the SRA, and encouraged to apply, if suitably qualified, would be one of the priority future actions as well as providing data by grade across all the protected characteristics. The SRA's positive action proposals set out in the Equality Framework should assist.

5. Equality impact assessment of HRD policies

5.1. Having reviewed a number of equality impact assessments provided to me and published on the SRA's internal intranet, it is clear that the HRD function is keen to assess the impact of its policies. However, the quality of assessmeents needs to improve as most do not have sound data, contain little analysis of impact, and fail to provide information on consultation feedback and how these have been considered within the assessment.

5.2. I would suggest that the SRA equality and diversity team should be engaged by HRD in supporting and quality assuring the equality impact assessments. It is also important that these assessments are undertaken at the point of policy development and policy review and not as an "add on" or "after thought".

6. Staff Grievances

6.1. There were 15 formal grievances recorded during the past twelve months, broken down as follows:-

Age	11 were from staff aged between 25 and 44
Disability	1 was from a disabled member of staff
Ethnicity	13 were from White staff, 1 from as staff member who was from a Mixed ethnic background and 1 was unknown
Gender	10 were from females and 5 from males
Religion	13 had no religion and 2 were Christian
Sexual Orientation	12 were not specified 3 were heterosexual

7. Positive Action

7.1. While the SRA has been successful in improving the diversity of its adjudication panel through a positive action approach that targeted highly talented applicants from diverse backgrounds, it is disappointing that the same approach has not been applied in the workforce recruitment or at Board level, both being led by The Law Society and its HRD function. It is heartening that the recent recruitment for additional Board members has had a more positive result by direct involvement of the SRA. The SRA"s Equality Framework has some ambitious targets for increasing its diversity profile with a commitment to positive action.

7.2. Positive Action is a lawful tool which provides employers with the encouragement to improve its workforce diversity. The SRA is committed to taking positive action in its

talent management programme. HRD must commit and be pro-active to these processes if the SRA is to achieve its targets with the implementation of positive action programmes.

8.   Employee Survey Results 2010

8.1.   68% (455) of SRA employees responded to this survey, with over half of them having been in the employment of the SRA for more than five years and 25% with over ten years service. This is a good result and I am pleased to note that the SRA is focused on improving the response rates in 2011.

8.2.   90% of respondents were white, 75% women and 82% aged under 44. "Read-across" diversity information was limited and a severe handicap to answering many of the questions posed. The SRA has addressed this limitation by including further diversity questions within the 2011 staff survey and requesting a breakdown by the key equality characteristics.

8.3.   Less than half of respondents believed that the organisation values their work and only half of respondents would recommend the SRA as an employer. Only 40% believed that training had improved their promotion chances. There is no diversity analysis to enable further assessment of why, and who holds such views.

8.4.   Staff surveys provide an organisation with a valuable assessment of how its staff are feeling and view the organisation. The SRA has been carrying out annual staff surveys since 2009. The trend emerging with regard to the SMT is worrying as in 2009 the SMT scored low on areas such as staff engagement and involvement, communications and respect. While there was a slight improvement in 2010, there is a need for the SMT to review how it positions itself as taking its staff along with it. The transformation agenda provides an excellent opportunity for the SMT to communicate its commitment to diversity and fairness.

8.5.   Staff held positive views about the transformational changes in the SRA. However, over 25% claimed not to be aware of Equality and Diversity and one-third were not sufficiently confident in their knowledge about equality and diversity developments. This requires diversity data and analysis to enable a better understanding of who and what requires different and relevant responses in action programmes. 37% of respondents did not believe that the SRA fostered an inclusive culture. Disability and sexual orientation were characteristics considered to be most likely to adversely affect career progression. 17% of respondents reported that they had observed colleagues experiencing discrimination in the past 12 months. Around half of respondents believed that the SRA does not act fairly with regard to career progression, secondment, promotion, regardless of ethnic background, gender, religion, sexual orientation, disability or age. What action has the SMT put in place to address these issues and how does it know who is to be prioritised given the paucity of diversity cross data?

9.   Transformation

9.1.   The SRA became an outcomes-focused regulator from 6 October 2011 and is undergoing transformation which has seen it:-

- Send all its staff to an assessment centre to assess whether they have the necessary competencies for the new SRA.

- Develop a new IT infrastructure that will give it the tools and systems to record, monitor and report on its performance.

- Restructure its SMT with a reduced number of Executive Directors.

- Restructure its management structure to create a new leadership layer comprising of directors heading each of the key functions of Supervision, Standards, Risk and Authorisation.

- Put a third of its staff at risk of redundancy to ensure that its structures were fit for purpose going forward.

- Announce a move to a single site in Birmingham.

9.2. The SRA is going though a massive amount of transformation to make itself 'fit' for becoming a more risk-based regulator with a focus on outcomes. In doing so, it becomes even more important for it to have modern HRD policies and practices that enable it to create an organisation that attracts, recruits, develops and retains the best diverse talent and one that is, and is seen to be, fair and inclusive.

9.3. As a starting point, it must ensure that it assesses the impact of this change on its staff and in particular the impact on diversity. I would expect the organisation to have carried out and published equality impact assessments about:-

- outcomes of its assessments centre,

- the restructure,

- its redundancy policy,

- the move to a single site.

9.4. I would expect to see diversity and inclusion integrated into the SRA's strategic and operational business plan with clear outcomes indentified and for the organisation to have performance objectives on diversity and inclusion for all senior managers.

9.5. I am unable to assess progress on these critical areas as I have not seen nor been provided with equality impact assessmsnets or documents that show that assessment on the impact of these changes on diversity have been undertaken. Has the SMT made decisions on such important workforce matters without the benefits of considering the implications of such equality impact assessments?

10. Current /Future Concerns

10.1. There are specific concerns in HRD management for the SRA Board and SMT to address, particularly with regard to staff morale, performance and impact. With regard to equality and diversity, there is a wide spectrum of interests to consider. After the progress made during recent years in addressing race disproportionality in relation to regulatory activities, there is some anxiety about how the transformational programme might adversely affect the equality and diversity policy implementation, particularly with regard to HR. (Separate urgent considerations have been taking place with regard to a range of other concerns, including, for example the assigned risks pool and allegations of discrimination in the professional indemnity insurance market).

10.2. Organisational change brings benefits as well as turmoil. Sometimes good intentions and well-meaning actions can impact negatively on other initiatives. In such circumstances, and in this instance, there have been some staff rumblings about issues of fairness, equality and inclusion.

10.3. The concerns identified over recent months are reflected in paragraph 6 above, and can be summarised as:-

- The risk of equality and diversity becoming marginalised as transformation takes place at a considerable pace with new over-riding priorities.

- The staff survey for 2010 has some findings which are concerning as staff feel reluctant and fearful of raising issues of unfair and discriminatory treatment affecting themselves. The SRA has in place an action plan to deal with this issue and it would be interesting to see if these actions result in an improvement in 2011.

- The SRA's hierarchy and top management structures, apart from gender, do not reflect diversity characteristics among their members and at the time I carried out my review, there appeared to be little succession planning or talent management arrangements in place to enable the emergence of meaningful equality and diversity change in the immediate future.

10.4. The SRA has, over the past four years, been addressing the issues of equality and diversity in a comprehensive way, following the review of its policies and practices which exposed disproportionate adverse treatment of BME solicitors in its regulation activities. The adoption of an equality and diversity strategy and the establishment of the EIG are testament to that progressive approach to achieve equality and fair and inclusive outcomes. Much progress has been made with the implementation of the strategy. There are clearly risks signs, reflected in the concerns expressed above and the findings from the staff survey. The SRA needs to keep these risks at the forefront of the change programme to ensure that it is not regressing and that equality and diversity is integral to the transformation of the organisation into an outcome focused regulator. This may be the underlying feature of some of the worrying outcomes from the 2010 staff survey but the inadequacy of the existing diversity data makes it difficult to undertake better analysis.

10.5. The SRA has made progress since the publication of my original report in 2008 and this has made a difference in the way it approaches equality and diversity issues internally. It has gone some way to becoming an employer of choice and one which is inclusive and recruits and retains the best diverse talent in its workforce. This presents a real challenge for an organisation undergoing radical change and transformation. It is therefore even more critical that the SRA does not lose its focus and continues the momentum in progressing its equality aims and aspirations.

10.6. I have seen evidence in some organisations which, when faced with institutional change, experience a discernable pattern of fatigue and complacency which arrives after a period of some success and achievement. This is when efforts and action are seen by some as having reached a plateau. Often heard are the phrases: "we have done equality" or "we have other over-riding new priorities", or "the world has changed and we move on". While I have seen no evidence that shows that the SRA may be affected by this trait or that equality and diversity is becoming marginalised, it is important that the SRA remains alert to this risk, particularly at a time when there is large scale internal change and competing priorities. so called "equality and diversity fatigue" in organisations can lead to embarrassment among some if they are seen to be talking about equality and diversity; others regard it as damaging to their own prospects to be seen as "politically correct". Thus equality and diversity becomes marginalised, often unwittingly, although some among the powerful and influential in organisations welcome this reversal, often tacitly, but, in some

instances, quite blatantly.

10.7.   The 2010 staff survey revealed how much work needs to be done to improve the SRA's management and leadership performance and to raise the confidence and trust of staff about their own individual prospects and their view about the SRA as an employer of choice. 37% of staff in the survey did not believe that the SRA fosters an inclusive culture. Only 52% agreed that the SRA acts fairly with regard to career progression, secondment and promotion, regardless of ethnic background, gender, religion, sexual orientation, disability or age. Harassment and bullying come in many forms and affect staff in different ways. 17% reported that they had observed colleagues experiencing discrimination and 10% were of the view that disability was a factor that restricted career progression. The SRA has implemented an action plan to address these issues and I would be interested in finding out whether the actions taken by the SRA have had an impact. The staff survey for 2011 will provide valuable information about staff perception and feelings about its senior managers and the organisation culture.

10.8.   With the major restructuring taking place in the SRA, and its potential adverse impact for some staff, the equality and diversity challenge for the organisation is whether it believes it has met and continues to meet its obligations satisfactorily, or whether it accepts that some bold actions must be undertaken to demonstrate its equality and diversity credentials, competence and determination to succeed in being an employer of choice.

Lord Herman Ouseley
October 2011

ANNEX 1: SOME OF THE KEY QUESTIONS THE SRA SMT NEEDS TO CONSIDER AS IT TRANFORMS ITSELF

- What are the equality and diversity implications of HR, as identified in the equality impact assessments? Are there impact assessments in place for the restructure at each stage and, if so, what are the implications for the organisation? Should the SRA's Diversity and Inclusion team be engaged by HRD in supporting and quality assuring the impact assessments?

- Who is benefiting most from promotions and how fair are those decisions?

- Who is missing out, being overlooked, why and how to improve performance?

- What will the SRA look like at the top and near the top of the management structure in the absence of any effective succession planning and positive action programmes designed to achieve diversity, equality and inclusion outcomes?

- Does the SRA Board and the SMT intend to address the perceptions, realities and implications of what its composition represents in equality and diversity terms?

- What about the external perceptions of the SRA?

- What positive action programmes are to be pursued?

- How are under-represented groups of people being targeted for recruitment especially at senior levels?

- Will more comprehensive employment specific data be produced to enable high quality equality and diversity analysis to be available to assist performance management and the development of equality and diversity initiatives?