InterLaw Diversity Forum for LGBT Networks

CAREER PROGRESSION IN THE LEGAL SECTOR 2012

A Report on Lawyers and Business Services Professionals by Gender, Ethnicity, Social Mobility, Disability and Sexual Orientation

BY

STEPHEN WARD,
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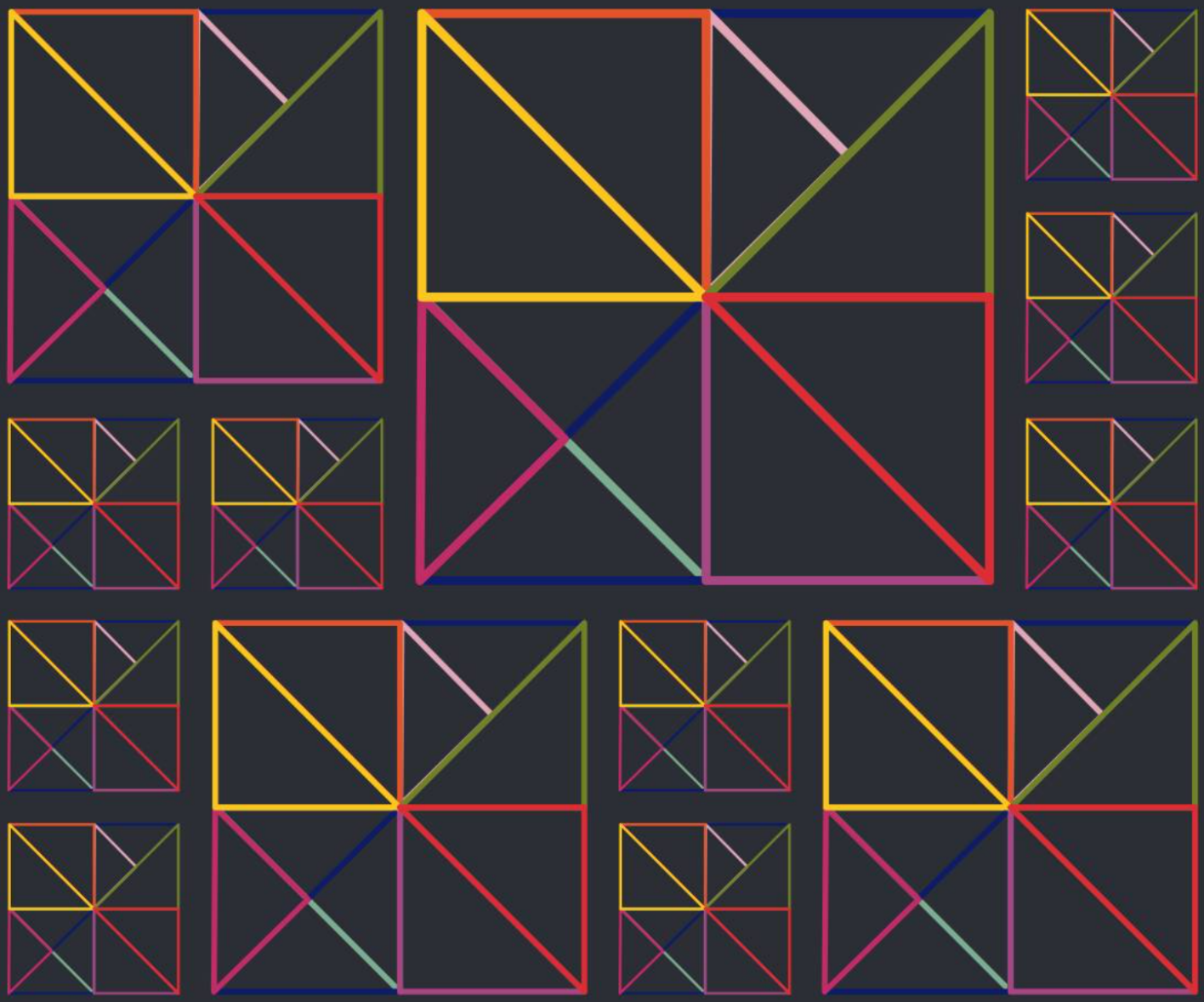

With a foreword by the Rt Hon the Baroness Scotland of Asthal QC

About the InterLaw Diversity Forum

The InterLaw Diversity Forum for Lesbian, Gay, Bisexual and Transgender ("LGBT") Networks (the "InterLaw Diversity Forum") is an inter-organisational forum for the LGBT networks in law firms and all personnel (lawyers and non-lawyers) in the legal sector, including in-house counsel (the "LGBT Legal Community") and has over 1,000 members and supporters from more than 70 law firms and 40 corporates and financial institutions. The InterLaw Diversity Forum was founded in March 2008 by Daniel Winterfeldt, Head of International Capital Markets at CMS Cameron McKenna LLP. The InterLaw Diversity Forum's overall objective is to encourage LGBT diversity and inclusion in the legal sector.

The InterLaw Diversity Forum was created in response to a need for an organisation to address LGBT issues in the London legal sector. Until 2008 no London law firm had entered the Stonewall Work Equality Index's ("WEI") Top 100 Employers for LGB Employees, placing the legal sector far behind its City peers. The WEI is the definitive national benchmarking exercise showcasing Britain's top employers for lesbian, gay and bisexual staff. In addition, top clients of City law firms had asked the London legal community to address LGBT issues and to create an environment where employees can reach their fullest potential without regard to sexual orientation. In addition, the creation of the InterLaw Diversity Forum was also influenced by the recommendations in a 2006 study published by The Law Society: *Career experiences of gay and lesbian solicitors.*

Since the launch of the InterLaw Diversity Forum, the legal sector's performance in Stonewall's WEI has dramatically improved growing from one law firm in the Top 100 Employers in 2008 to six law firms in 2012. Stonewall stated: "A major part of the movement forward for the [legal] sector has been [the] InterLaw [Diversity Forum]. It helped provide a sector-specific focus." The InterLaw Diversity Forum has also been recognised by various awards including The Law Society Excellence Awards, The Lawyer Awards, Legal Business Awards, the FT Innovative Lawyer Awards and most recently by the Lawyer HR and Diversity Awards as "Most Effective Diversity Programme LGBT."

For additional information on the InterLaw Diversity Forum please visit interlawdiversityforum.org, join us on our Facebook community page or fly with us on Twitter at @InterLawLGBT.

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ACKNOWLEDGEMENTS

Our thanks go out to the almost 2,000 respondents to the survey conducted at the end of 2011 and the beginning of 2012. Without them we would have nothing to report.

We would also like to thank the members and supporters of the InterLaw Diversity Forum for LGBT Networks ("InterLaw Diversity Forum") who responded, promoted and supported this vital work.

We owe a debt of gratitude as well to Baroness Scotland of Asthal for taking the time to write the eloquent foreword to this report and for her unceasing support of and commitment to equality and diversity in the legal profession.

The authors are also very grateful indeed to the following leading thinkers on diversity and inclusion in the legal sector who made up our expert advisory panel and who were kind enough to give time to review drafts of this report.

Their critical comments and enthusiastic support have been invaluable. Errors can be laid entirely at the authors' door.

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FOREWORD

The Rt Hon the Baroness Scotland of Asthal QC

I congratulate the InterLaw Diversity Forum for LGBT Networks for carrying out this very powerful study of career progression in the legal sector. But I can only regret the picture which it puts so clearly before us.

The findings echo the findings of past qualitative and quantitative research in the legal sector and beyond stretching back over several decades. They indicate that existing initiatives aimed at increasing diversity are not having a significant or sufficient impact.

A culture which is not able to value the contributions which different groups bring to collective endeavour is not sustainable, even in the short term. Favouritism or unconscious bias by managers is obviously damaging to career development for some individuals, bad for team spirit and effectiveness and a simple waste of talent. We've seen that FTSE 100 companies with more diverse boards weathered the financial crisis that began in 2007 better than those which had less diverse leadership. It is self-evident that organisations with greater breadth of experience and diverse modes of thought will be more robust than those which are homogeneous and do not reflect the populations which they seek to serve.

A profession stuck culturally in the mid-20th century will not flourish in the middle of the 21st. A very great deal of research has been undertaken into the causes for the persistence of unequal progression through career paths on which the legal sector can draw. The Legal profession has a proud history, and has for centuries been the conduit through which the rights of others have been upheld; the sector has shown itself to be capable of rapid and successful innovation in the face of change and this may give us grounds for optimism even in the face of the very slow evolution which we have seen to date. But speedy change is now of the essence.

The evidence in support of the business case for diversity is clear and unavoidable. As lawyers it is difficult for us to ignore the case for change or the moral case for equality and fairness. I hope that over the course of the next five years future versions of this study and others like it will find and be able to celebrate a marked improvement. That improvement needs the will of the leaders in the sector and the engagement of all. No small task, but a vital one.

I urge everyone working in the legal sector to respond to the alarm bell that this report rings so loudly.

The Rt Hon the Baroness Scotland of Asthal QC

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INTRODUCTION

— *0.1*

The InterLaw Diversity Forum for LGBT Networks 2012 Career Progression Study builds on our 2010 study of LGBT career progression and widens it to include all lawyers and business services professionals. We wanted to be able to assess and compare the experiences of different groups in the sector to shed light on the situation of the LGBT members that we exist to support. What we found dramatically reshaped our intentions and greatly broadened the scope of this report.

We were very pleased to have secured over 1,900 responses from across the legal sector albeit very few from barristers and others working in chambers. The 2012 questionnaire asked a broader range of questions than the 2010 version so as to create a fuller picture of progress towards genuine equality and diversity across the sector. This survey is of course a snapshot in time. It does not look at individual employers, but rather at the picture across the sector.

This report offers some of the key findings arising out of our analysis of the responses. The rich data has more potential to shed light on current experiences in the legal sector. There are plans to undertake further studies including a more sophisticated regression analysis and use of other techniques to give an even more rounded picture of the sector.

HARD TRUTHS
— *0.2*

There is a remarkable consistency across all the areas that the survey covered which included hard facts such as salary levels and social mobility data alongside respondents' perceptions of their career development, the management of their workplace and fairness in pay and advancement. There is a striking correlation between the hard data findings and perceptions. Those groups which are lower paid or who did not have an elite education are the same groups that are less satisfied with their seniority, less likely to believe that their workplace is well-managed and less likely to believe that achievement and reward are fairly assessed. You will see this pattern repeat as you read the various sections that make up the report.

Building on that, we can see from the results that, as a broad rule of thumb that generally holds good throughout this report, the more an individual diverges from the elite-educated, white, male norm the less well-paid and the less satisfied they will be with their career progress. So white women earn less and are overall less satisfied than white men. However, black women are even less well-paid and more dissatisfied than either white men or women. There are a few minor examples where this rule breaks down though and it is important to note that overall, black men tend to report lower salary and more negative perceptions of their career progression than any other group.

We must stress that we have not focused on direct intentional discrimination. Rather, the report illustrates structural and social drivers within the profession that force patterns of advantage and disadvantage that militate against diversity and inclusion.

HEADLINE FINDINGS
— 0.3

In summary, this report points to three headline areas of concern:

Culture

Elite-educated white males still dominate the positions of prestige and higher reward in the sector, while women and ethnic minority lawyers find themselves in less prestigious and less remunerative areas of the profession.

Management practices

Many respondents expressed concern that they are inadequately prepared and supported in the management of others and this could go some way to explaining why the management of diversity and inclusion is proving to be such a challenge.

Social mobility

In the past, this was driven by the state selective education sector but as that has shrunk, the progress of people from less privileged backgrounds to leading positions in the sector appears to have slowed.

Underpinning these three areas are the following key findings:

The patterns of participation and satisfaction differ very considerably between lawyers and business services professionals. The contribution of business services professionals to the success of the sector is often less valued than the contribution of lawyers. The overall emphasis in law firms places vastly more pressure and more value on the work of those who are client-facing and directly generating income. There is also the perception that the 'client expectation' is that lawyers should be available 24/7. This idea works very much to the detriment of part-time and flexible working lawyers (who tend to be women of course). It also means that those in business services have comparatively greater freedom to manage their working lives more sensibly and sustainably.

Of course, many law firm clients will themselves either be working according to contemporary patterns or in organisations where such patterns are accepted and successful. This inevitably leads us to question whether the 'client expectation' is in fact something of a myth that supports the status quo in law. Alongside this is the apparent belief that people with certain backgrounds and characteristics will meet the expectations of clients or project a better brand image in terms of being the public face of a firm, perhaps because they have greater social polish and poise. Here the bias seems to be towards those who have received an elite education.

The impact of gender and ethnicity on career progression is remarkable among lawyer respondents and they are slightly less marked in business services. There are complicated factors at work here to generate the patterns we find. In the case of women lawyers, flexible or part-time working has a significant impact on career progression and there is much anecdotal evidence that it is perceived as a lack of commitment to the organisation and a legal career. That perception supports the dominant group's view of itself as best suited to leading positions in the profession. In the case of ethnic minorities the drivers can be found in factors such as the sectoral bias that favours those with an elite education and the unconscious bias against 'the other' that people have and need to be highly aware of in performing management roles.

White males seem to be getting the most support from role models, sponsors and mentoring. This surprised us because the most high-profile and formal mentoring or sponsoring programmes are generally aimed at assisting women or ethnic minority individuals. However, it is thought by many that dominant groups will reinforce their positions by preferring those who are like them or who want to be like them and follow their patterns of behaviour (like will mentor and sponsor like). The findings of this report indicate that such patterns of behaviour are prevalent in the legal sector.

The sector appears to value and reward an elite education to a surprisingly disproportionate degree. The latest report from the Government's advisor on social mobility, Alan Milburn, requires that the professions do much more to support social mobility and recommends drawing talent from a much wider pool[1]. If we look at the whole legal sector, we can see that the workforce as a whole is in fact drawn from a fairly wide pool. However, the positions of power and prestige in the sector remain disproportionately in the hands of those who attended Oxford or Cambridge universities. It must be the case that this bias overlooks and squanders huge amounts of talent that the profession can ill afford to miss out on as the global environment becomes ever more competitive. Especially if we take into account the fact that ethnic minority Britons are far more likely than white Britons to attend new universities.

Lesbians and gay men who responded to this survey are particularly high achievers both in terms of their education and in their careers. It is a widely held belief that those who are set apart from dominant groups in professional settings have to work harder and demonstrate greater ability in order to progress in the same way as the dominant group. This could lead the reader to infer that our sample of lesbian and gay men in the law are a group of over-achievers who through a combination of talent and drive have secured an elite university education and subsequently reached senior positions in the legal sector. Such achievement is often driven by a need to prove oneself as worthy of esteem as one's peers or to escape a background that feels hostile. We have also to take into account the tendency in the legal sector for individuals to come out only once they have reached senior positions and that this might well have shaped the group of respondents to this survey.

But the legal sector is one of the most successful in the United Kingdom, why should it change? The English legal sector is an economic and trading success story. It is overall a rich and well-resourced profession that can afford to work collectively at reforming itself and could be a role model for other professions. At the same time, large parts of the profession are straining under the combined impacts of changes in fee structures, the liberalisation of the legal services market, government cuts to legal aid spending, a challenging general economic situation, increased competition and the tectonic shift in the centre of gravity of global business activity. With high profile firms failing and a quickening consolidation in the market along with legal services becoming ever more globalised, the sector needs to do all that it can to make itself fit for a very different future.

There is undoubtedly a very great deal of activity in the legal sector aimed at addressing equality and diversity challenges. Some firms sponsor employee network groups, hold a very wide range of events looking at the issues facing each of the minority groups and have built diversity and inclusion training. Training in dealing with unconscious bias is beginning to spread. But excellence in this area exists only in small clusters and even then it would seem that often well-resourced inputs are not delivering outcomes that are making any real difference.

RECOMMENDATION FOR ACTION

— 0.4

We could make many detailed recommendations for action by organisations in the legal sector, but we feel that the situation is so serious and challenging that there needs to be a strong focus on just one principal recommendation supported by three action points.

Aiming for Change: It's Time for Targets

In view of the startling lack of progress across the sector, **we believe that it is now time for the legal sector to set firm targets for the inclusion of women, minority ethnic, LGBT and disabled lawyers and business services professionals at all levels.**[1] We note that some law firms have already begun to consider setting targets in relation to specific groups[2] and targets set for the inclusion of women on FTSE 100 Boards seem to be having the desired effect.[3]

There are three areas of activity, mirroring the headline findings identified earlier, that will be vital in driving progress towards those aspirations:

Culture

Organisations should set clear expectations for good management and inclusive behaviour by all and make sure that people's performance against those expectations is properly assessed, that good practice is rewarded and failure is addressed. This means building inclusive behaviours into appraisals in a meaningful way, rewarding individuals who demonstrate such behaviours to make a positive impact and addressing failures to reach expected standards of behaviour through bonus systems and training.

Management Practices

People moving into management positions need high quality training and support to prepare them for those responsibilities. They need to be able to mentor and coach the people they manage in an inclusive way and be aware of unconscious bias.

Social Mobility

Employers need to think hard about how to broaden their recruitment pool to ensure that talent is not overlooked simply because it is not sitting in the obvious places. Promotion and advancement policies and practices must be reviewed to ensure that they genuinely serve diversity and inclusion and drive improvement.

These are set out in more detail in the conclusion of this report.

FOLLOWING UP ON THIS REPORT

- 0.5

The InterLaw Diversity Forum for LGBT Networks will be holding events to discuss the findings of this report and the recommended actions in more detail. We look forward to working with employers, representative groups and the Law Society to continue to deliver change in the legal sector. We intend to repeat this survey in the future to assess what progress has been achieved in the interim. We look forward to continuing to work with colleagues across the sector. The Legal Services Board requirements for regulators and regulated entities (law firms) to monitor the profile of their staff should provide a useful impetus towards better understanding of the current situation and provide a spur to progress. We note also that the Law Society's Diversity and Inclusion Charter is an invaluable tool for firms to self assess and offers practical support to address the challenges they face.

SECTION 1

— *It's Not What You Know... : Salary*

The most obvious measure of the relative career progression of different groups within the legal sector is salaries. We asked respondents to tell us which salary band they fell into. The tables below help us to understand those responses and the differences between groups in the legal sector by looking at what the bottom 50% in each group are paid, what the top 10% achieve and the highest band reached by an individual in the group. There are some depressingly familiar findings which seem to indicate that progress in achieving equal opportunities and progress for talented individuals regardless of their gender or ethnicity in particular is slow or non-existent.

The uneven distribution of women, men, white, disabled and ethnic minority respondents across the salary ranges shouts out that the sector is not successfully identifying, nurturing and rewarding talent across all groups. The figures below indicate that the further an individual is away from the white, male dominant group, the less likely they are to progress to senior positions in the profession. Unless we believe that white men make better lawyers than, for example, women or ethnic minorities to a huge degree, the salary findings are a deafening call to action.

Lawyer Salary Patterns by Respondent Group

	Bottom 50% are in this band or lower	Top 10% are in this band or higher	Highest band reached
Gender			
All men	*55-70k*	*200-300k*	*500k+*
All women	*40-55k*	*100-200k*	*500k+*
Ethnicity			
White men	*55-70k*	*200-300k*	*500k+*
White women	*40-55k*	*100-200k*	*500k+*
Black men	*25-40k*	*70-85k*	*100-200k*
Black women	*25-40k*	*40-55k*	*70-85k*
Asian men	*55-70k*	*100-200k*	*300-400k*
Asian women	*40-55k*	*85-100k*	*200-300k*
Mixed race men	*25-40k*	*100-200k*	*300-400k*
Mixed race women	*40-55k*	*70-85k*	*85-100k*
Sexual Orientation			
Straight women	*40-55k*	*100-200k*	*500k+*
Gay women and lesbians	*70-85k*	*100-200k*	*300-400k*
Straight men	*55-70k*	*100-200k*	*500k+*
Gay men	*70-85k*	*200-300k*	*500k+*
Disability			
Disabled men	*85-100k*	*100-200k*	*200-300k*
Disabled women	*40-55k*	*85-100k*	*100-200k*

Salary Statistics

The following charts show which band the least well-paid 50% of each group falls into or below, the band into which the best-paid 10% fall or exceed and the highest pay band reach by any person in that group.

Gender

Salary differences by gender are very significant amongst both lawyers and business services professionals. Research by the Law Society[4] has found that gender and ethnicity-based pay inequality amongst lawyers cannot generally be described as cases of unequal pay for the same work. (This is less easy to assert at senior levels (e.g. equity partner)

Business Services Salary Patterns by Respondent Group

	Bottom 50% are in this band or lower	Top 10% are in this band or higher	Highest band reached
Gender			
All men	*25-40k*	*85-100k*	*200-300k*
All women	*25-40k*	*55-70k*	*300-400k*
Ethnicity			
White men	*40-55k*	*85-100k*	*200-300k*
White women	*25-40k*	*55-70k*	*300-400k*
Black men	*25-40k*	*40-55k*	*40-55k*
Black women	*10-25k*	*55-70k*	*70-85k*
Asian men	25-40k	55-70k	55-70k
Asian women	*25-40k*	*40-55k*	*100-200k*
Mixed race men	*10-25k*	*25-40k*	*25-40k*
Mixed race women	*10-25k*	*40-55k*	*100-200k*
Sexual Orientation			
Straight women	*25-40k*	*55-70k*	*300-400k (1 respondent)*
Gay women and lesbians	*85-100k*	*100-200k*	*100-200k*
Straight men	*25-40k*	*85-100k*	*200-300k*
Gay men	*25-40k*	*100-200k*	*100-200k*
Disability			
Disabled men	*10-25k*	*10-25k*	*25-40k*
Disabled women	*25-40k*	*25-40k*	*55-70k*

where there is little transparency of reward while at junior levels pay progression is generally linked to PQE.) Rather, women and ethnic minority lawyers are more likely to work in less remunerative roles (legal aid, smaller firms, and public sector) than white or male lawyers and so the inequality might be described as structural.

The tables illustrate that structural inequality. They look only at those respondents who reported that they work full time. They set out what percentage of male and female respondents fall into each salary band. The first looks at lawyers, the second at business services professionals. They both show the same pattern of men being much more likely than women to receive higher salaries.

It is perhaps surprising to note that pay differentials between men and women in business services follow the same pattern as for lawyers. That is to say that men significantly outperform women in salary terms even though women predominate in that part of the business. Another reason to look again at traditional assumptions of the value of different people's work and the reasons for pay differentials in the sector. These findings could be explained away by citing by a number of factors:

- First, the already-mentioned tendency for women to work in less prestigious and remunerative areas of law and types of firms. But is that by choice or necessity?
- Second, to a degree the slightly different age profiles of the male and female populations in the legal profession. But the changing gender

profile of entry to the profession is not as dramatic as the chart to the right would imply.

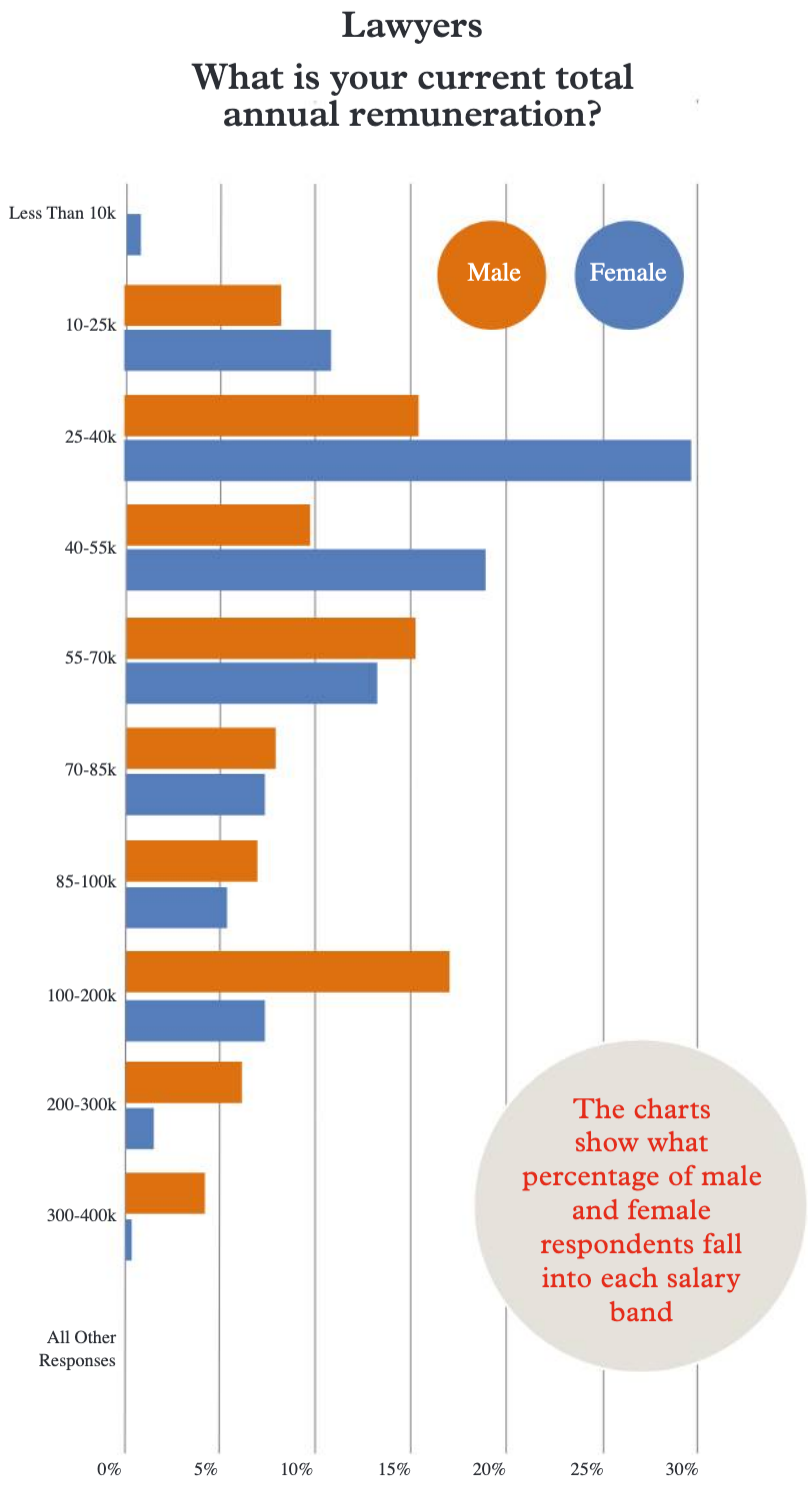
- Third, the fact that the timetable for progression to partnership positions clashes perfectly with the absence of many women from work or their entry into flexible working in order to care for babies and young children. Law firms seem to find it very hard to accommodate the notion that following a career break an individual could progress to partnership at a later age than their peers.

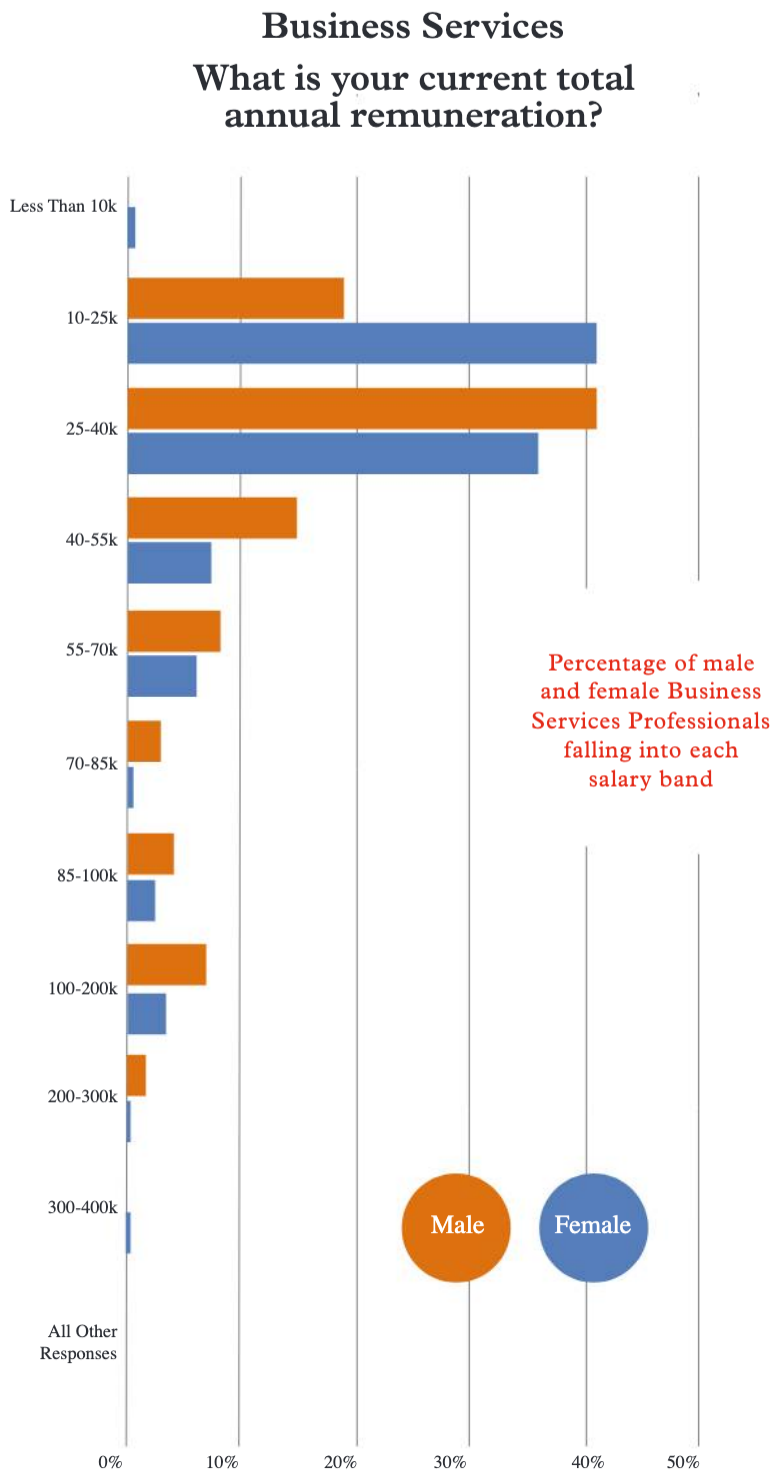
Those three factors can be used to explain away differences in salary and to support the view that each individual is being treated fairly but that their circumstances differ, but to do so is to dodge the main point. The fact is that the evidence of salary illustrates starkly the divergent impacts of the culture and management practices of the legal sector on male and female careers.

Ethnic Minorities

Remuneration is substantially lower for ethnic minority respondents than for white lawyers or business services professionals. In line with our rule of thumb about degrees of divergence from the white, male norm, black female respondents are the least well-paid lawyers overall, with 90% of them earning between £40 and £55k or less and no black female lawyer respondent earning more than £100-200k.

In business services, where pay is substantially lower than amongst lawyers, the picture is somewhat more mixed. Here it is still black women and mixed





race men and women who fare worst in terms of the band into or below which 50% of respondents fall (10-25k). But distribution across the pay bands is less of an even pattern than amongst lawyers. Here again though, men outperform women overall in salary terms and white men and women are better paid than their ethnic minority colleagues.

Lesbians & Gay Men

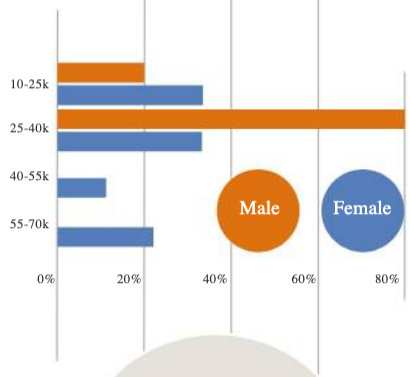
Gay men and lesbians who responded to this survey appear to do very well, whether they are lawyers or business services professionals. It is important to note that the group of lesbian respondents was overall older than the straight female respondents and that this could have an impact on the results in terms of the relative seniority of lesbian respondents and their salaries. However, there is a widely-held view that, in order to succeed in any sphere, lesbians and gay men, in common with other non-normative groups have to excel in order to achieve progress that others achieve more easily. The lesbian and gay respondents to this survey do appear to fall in to such a pattern of 'over-achievement', as we shall see in later sections. As we have already observed, we suspect that the group of lesbian and gay respondents to this survey is not fully representative of the whole community in the legal sector as so many LGBT people choose not to come out until they have reached a level of seniority that gives them comfort to do so. Happily, this is changing, but our 2010 study showed that some are concerned that young LGBT people in the legal sector who come out may face prejudice that will impact their careers. That remains to be seen.

Disability

The trend of divergence from the norm having a negative impact on career development is once again seen to a troubling degree in relation to those respondents who reported having a disability. The pattern of distribution across the salary band compared with the overall sample is very marked. Disabled men and women lawyers and business services professionals do not achieve the same salary levels as their peers by a very wide margin. Disabled men in business services seem to fare worst of all. Amongst lawyers, the double whammy of being female combined with another minority characteristic is seen again.

Business Services with Disabilty

What is your current total annual remuneration?



50%
of Mixed Race respondents earn 40k or less

Lawyers with Disability

What is your current total annual renumeration?

Percentage of male and female lawyers with a disability within each salary band

SECTION 2
— *Social Mobility*

It is still the case that lawyers are drawn very disproportionately from those who attended fee-paying schools and/or Russell Group institutions of higher education. This is a complicated area, closely linked to developments in education, society at large and government policy. Recent reports have indicated concern that universities are not making sufficient efforts to support social mobility, for example. Government pressure on the professions to address social mobility may be seen as contradicted by some policy initiatives that are viewed as inhibiting social mobility. Nonetheless, the expectation is that the professions have a very important role to play.

We have also to acknowledge that law firms are inundated with applications from very high quality would-be trainees each year. Sifting those applications is a major task that has led to the setting of rather mechanical approaches to the first stages of sifting using criteria such as 'A'-level results. This inevitably means that people with excellent abilities and potential who may have been disadvantaged socially or educationally or who might simply be late developers are weeded out before they can be assessed in a more rounded way. Getting round this problem clearly presents significant practice challenges for firms but some have addressed it and report positive results.

There are many initiatives across the sector to broaden access to the legal profession and to business services roles in law firms. Most of these have a long lead time and many fall into the category of raising general awareness and aspiration amongst historically disadvantaged groups without the specific expectation that they will seek careers in the legal sector. They tend to fall into the category of community service rather than being driven by a need to address inequality and a lack of diversity in the profession right now. Others are narrowly targeted and support individuals on the path to a legal career. Neither type of initiative tackles the challenges facing those from less advantaged backgrounds who are already working in the legal sector.

Putting on the Ritz

With something like three-quarters of all Russell Group first degree students coming from state schools, the more revealing statistics to examine are the percentages of lawyers who were educated at selective or fee-paying schools, which are far above the proportions for the population as a whole. Black men and women, but particularly black men in the sector are least likely to have benefited from an elite education. This certainly reflects a cluster of aspects of wider society, but given the profession's bias towards elite education it means that black men for example are fighting multiple prejudice as they build their careers because ethnic minority Britons are more likely to attend new universities than their white peers.

Percentages of Respondents by Group who Attended Russell Group Institutions for their Tertiary Education and the Percentage that Attended Fee Paying or Selective Schools at Age 14

	Lawyers		Business Services	
	Russell Group Institution	Fee paying/selective school at 14	Russell Group Institution	Fee paying/selective school at 14
Ethnicity				
White men	*61%*	*52%*	*37%*	*38%*
White women	*57%*	*39%*	*34%*	*25%*
Black men	*29%*	*0%*	*25%*	*0%*
Black women	*40%*	*33%*	*0%*	*31%*
Asian men	*48%*	*65%*	*14%*	*13%*
Asian women	*43%*	*32%*	*29%*	*33%*
Mixed race men	*58%*	*42%*	*50%*	*33%*
Mixed race women	*60%*	*63%*	*100%*	*56%*
Sexual Orientation				
Straight women	*55%*	*39%*	*33%*	*28%*
Gay women and lesbians	*70%*	*39%*	*29%*	*28%*
Straight men	*61%*	*54%*	*34%*	*38%*
Gay men	*54%*	*42%*	*40%*	*31%*
Disability				
Disabled men	*60%*	*57%*	*50%*	*60%*
Disabled women	*50%*	*41%*	*33%*	*22%*

CHANGING PATTERNS OF SCHOOL ATTENDANCE BY AGE GROUP: PERCENTAGES OF 25-30 AND 46-50 YEAR OLD LAWYERS WHO ATTENDED EACH TYPE OF SCHOOL

	25-30	46-50
STATE SELECTIVE	16%	25%
STATE NON-SELECTIVE	60%	53%
INDEPENDENT/FEE-PAYING	24%	21%

If we look at the percentages of lawyers from each type of school (See chart on page 19) we can see that the decline in those from state selective schools after the 1970s saw an uneven picture in relation to percentages from fee-paying and non-selective state schools. Reasons for this might be linked to economic cycles. Amongst the 30s and under we see a slight growth in state selective schools at age 14 and fall in fee-paying schools.

Looking at salaries achieved by lawyers who were at different schools at age 14 we make some interesting findings. The apparently higher performance of those who were at selective state schools can be explained to a limited extent by the somewhat older age profile of that group which is in turn a reflection of the closure of grammar schools from the 1970s on. Judging by the percentage of respondents who went to university as the first generation in their family to do so having attended a state selective school at age 14, those schools look to be better drivers of social mobility than either state non-selective or independent schools. State selective schools are better at getting first-generation university students into tertiary education than non-selective schools and those students in turn appear to achieve comparatively better in their legal careers. We can see this from the table that compares the salaries of those respondents from each type of school.

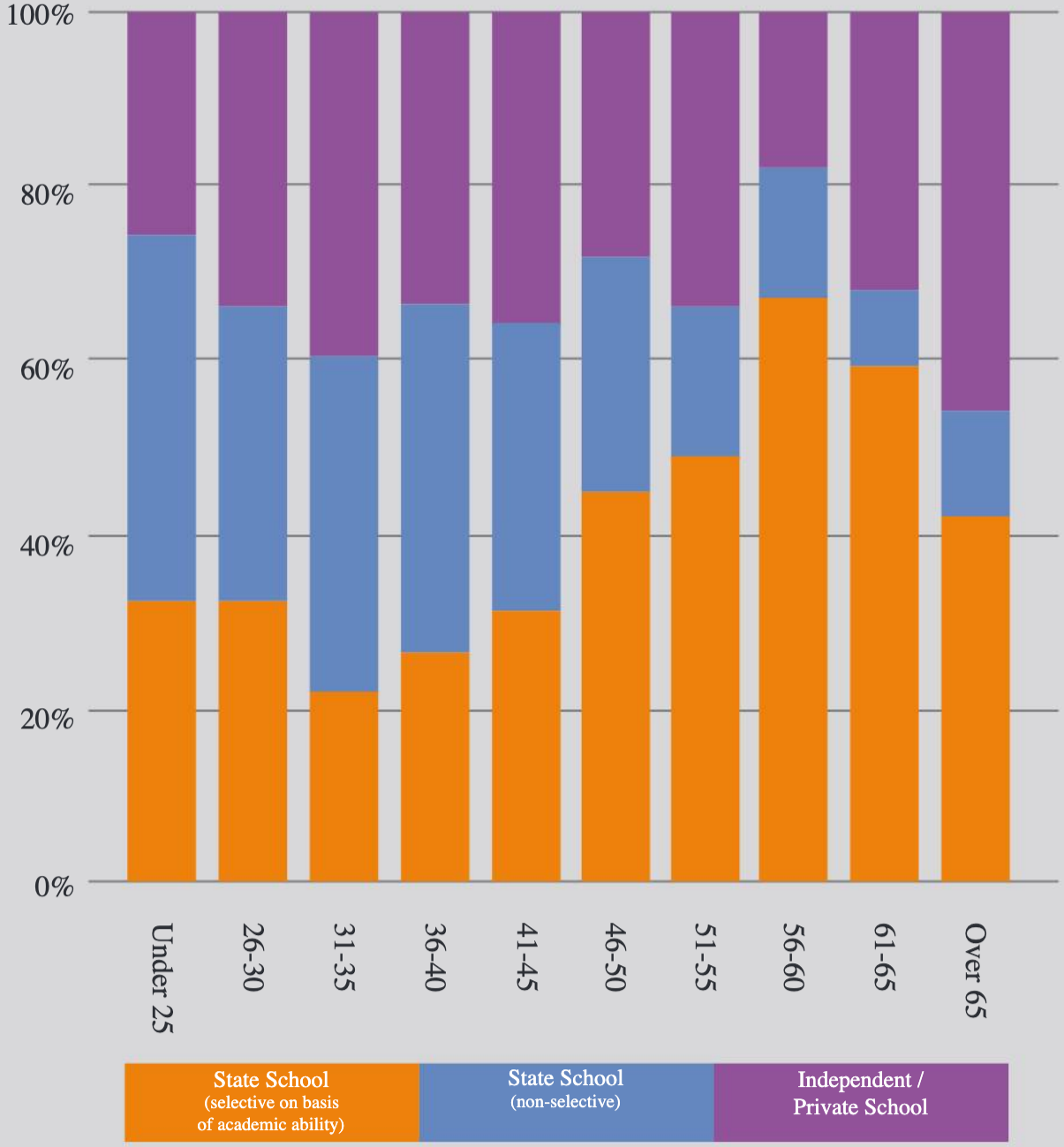
What Percentage of Attendants at Each Type of School were the First Generation of their Family to Attend University and what Percentage Attended Russell Group Universities?

Type of school attended at 14 by respondents who attended university	First generation to attend university?	Russell Group?
State non-selective	*39%*	*47%*
State selective	*55%*	*58%*
Independent /fee-paying	*32%*	*67%*

School Type at Age 14 and the Current Salary Pattern Amongst Lawyers

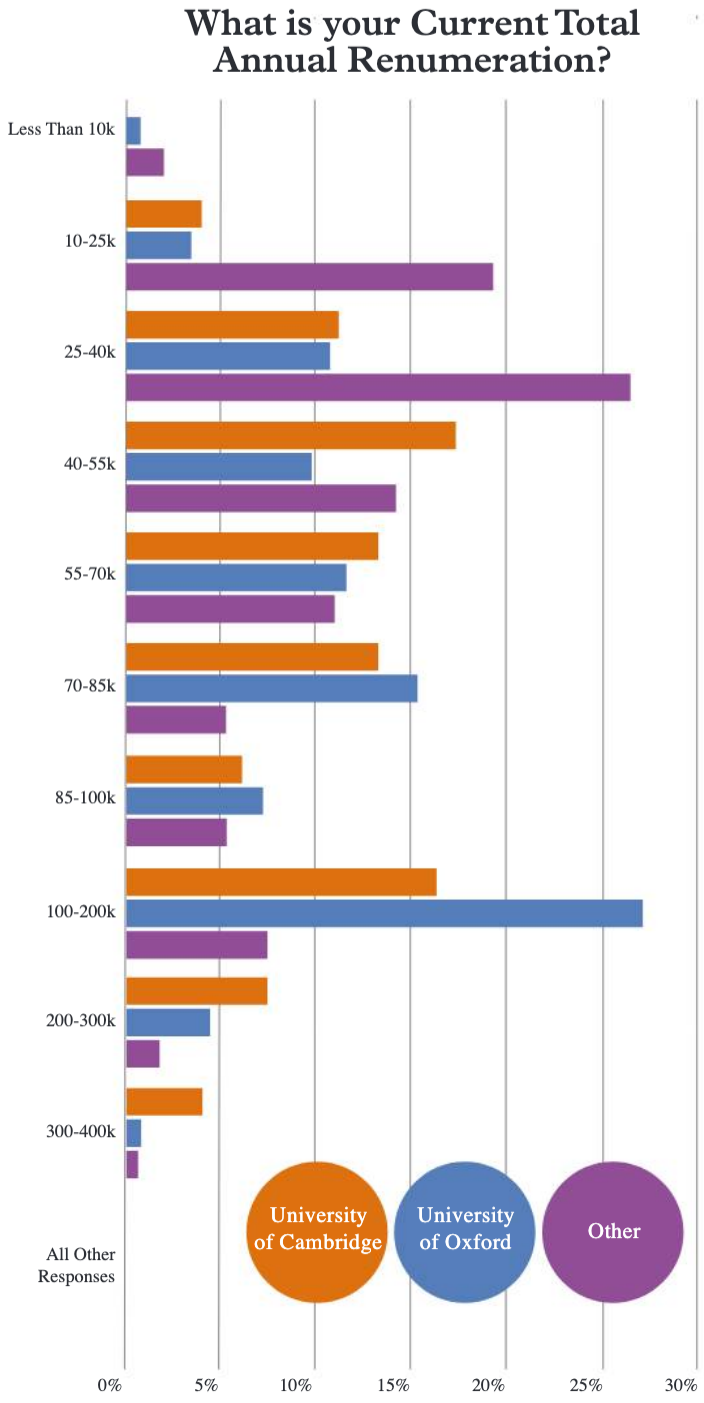
Salary bands for lawyers by school type	The bottom fifty percent earn this much or less	The top ten percent earn this much or more
State school non-selective	*40-55k*	*100-200k*
State school selective	*55-70k*	*200-300k*
Independent/ fee-paying	*25-40k*	*100-200k*

Breakdown of School Education by Age



The next table compares percentages of Oxford, Cambridge and non-Russell Group graduates in each salary band. There is a stark difference in distribution, with Oxbridge graduates very significantly outperforming non-Russell Group graduates in the salary stakes. Can it really be the case that Oxbridge graduates make so very much better lawyers than those from all non-Russell Group tertiary educational institutions? Professor David Wilkins of Harvard Law School has argued that an elite education is not a predictor of success as a lawyer.[4]

Cohort studies carried out for the Law Society over a number of years at the turn of the millennium clearly identified a bias in the legal profession in against graduates of new universities. Work by Ashley and Empson showed that firms (especially in the corporate sector) consider that graduates of 'ordinary' universities will 'damage the brand'[5].



SECTION 3

— *Closing Doors: Satisfaction with Career Progress*

The survey posed a number of questions about respondents' satisfaction with their career progression. This table shows what percentages of each group of respondents are satisfied with their current level of seniority.

This presents a very mixed picture. Some groups seem to do better in business services than as lawyers on this measure while the reverse is true of other groups.

More Satisfied in Business Services?

White women, straight women and mixed race women respondents are more likely to be satisfied with their seniority if they are business services professionals than if they are lawyers. In the case of women, this might support the belief that flexible working is less likely to hinder career progress in business services. In business services though, disabled respondents report significantly lower satisfaction than the norm, as do lesbians and gay, black and mixed race men.

With the exception of black and mixed race men, male groups are less likely to be satisfied with their seniority if they are in business services than if they are lawyers. This might reflect a sensitivity on the part of men to the comparatively lowly place of all business services

Percentage of Respondents Reporting that They are 'Satisfied' or 'Very Satisfied' with their Level of Seniority

	Lawyers	Business Service
Ethnicity		
White men	*47%*	*41%*
White women	*39%*	*47%*
Black men	*14%*	*25%*
Black women	*41%*	*36%*
Asian men	*42%*	*24%*
Asian women	*33%*	*24%*
Mixed race men	*55%*	*17%*
Mixed race women	*24%*	*38%*
Sexual Orientation		
Straight women	*38%*	*46%*
Gay women and lesbians	*41%*	*28%*
Straight men	*46%*	*42%*
Gay men	*43%*	*35%*
Disability		
Disabled men	*52%*	*40%*
Disabled women	*25%*	*33%*

professionals in the hierarchy of prestige in law firms. It might also reflect that women are more likely to be challenging men for roles in business services, but the salary achievements for men in business services nonetheless outstrip those of women if we look at the entire group.

Satisfied Lawyers

Amongst the lawyers there is a fairly striking gender pattern which sees all of the male groups more likely to be satisfied than their female counterparts. The only and very dramatic exceptions are black men and women. Only one third as many black male lawyers reported satisfaction with their seniority as white male respondents. In fact black men reported lower rates of satisfaction than any other group even recording ten percentage points below the lowest female group, mixed race women.

With that exception though, our rule of thumb holds good and satisfaction amongst lawyers can be seen to decline the further an individual diverges from the white, male, norm.

Supported in Management Responsibilities?

Turning to management responsibilities, around two thirds of all respondents are content that they receive adequate support and assistance in handling those responsibilities while around one quarter are not. The 2010 report by Somerlad *et al* for the Legal Services Board found that a lack of support for management responsibilities, together with inegalitarian work allocations, were major factors in supporting the careers of some and ensuring that others were dead-end[6]. Clearly this is an important area to address if diversity is to be managed and talent objectively nurtured and promoted.

There were many remarks about very informal arrangements whereby senior associates take on the day-to-day management of more junior lawyers without any preparation or recognition. This front line of management has great potential to influence the progress of diversity in the legal sector for good or ill. In general, as in many other sectors, people are promoted to leadership positions because they are good lawyers and not on the basis of management skills which means that at later stages too they can find themselves unprepared for managing diversity.

'the partner for whom I work is very supportive [...] willing to discuss any difficulties I may be having and offer advice...'

'plenty of support is available - finding the time to take it up is the issue'

'requests for support are declined on the basis that it is up to the individual to develop and support themselves'

Poor management practice or the bias that all individuals have towards those who are like them and against those who are not can both impact negatively on underrepresented groups in the profession. Such impacts at any stage in a legal career, but especially early on, can have a powerful effect on the further development of that career.

SECTION 4

— *Favourites Eat All The Cherries: Sharing Out The Work*

The survey asked a number of questions about the allocation of work in terms of both volume and quality. Being entrusted with high quality work and not being overloaded can have a very significant positive impact on career progress. High quality work is limited and all law firms have a great deal of more routine work that needs to be completed by their more junior lawyers. It is understandable that partners will allocate high quality work to those they believe will do it well and benefit from it in terms of training for more senior positions. Because of the very significant impact that the allocation of types of work will therefore have on an individual's career, it is important to know that allocation is fair and objective.

Mind the gap

There is a big gap in perception between the white male, gay male and straight male groups and the rest of the lawyer respondents. Black male lawyers are almost twice as likely as white male lawyers to believe that high quality work is not allocated fairly.

In business services, the picture is somewhat different. The gender effect is much less marked here between white men and women but it does reemerge amongst ethnic minority respondents, with black women the group most likely to have a negative perception, more than one-third of them believing that high quality work is not allocated fairly.

This finding must prompt the question of whether the success of white men is purely a result of superior ability or an example of the historically dominant group replicating itself or whether women in particular get a disproportionate amount of routine work to do because the expectation is that they will leave the profession in their thirties and so are not worth the training investment. Again, Professor David Wilkins is interesting on these issues.

If it is the case that women and ethnic minorities really are not getting to do the high quality work that fuels advancement, then inclusion will be very difficult to achieve in the sector.

Volume of work

Looking at the sheer volume of work, comments reveal stresses and strains in teams with some complaining that more senior people keep profitable work for themselves while others are not busy, that part-time lawyers are not given a fair share or that single people or those without caring responsibilities are given more to do that those with such responsibilities. One respondent told us: 'Those without families are expected to be more flexible on workloads and hours - picking up urgent work for those who hide behind childcare.' The impacts of this are just as pernicious as a failure to allocate high quality work fairly and fair allocation of volumes of work is a challenge for managers.

'Since returning from maternity leave, my commercial clients have been reallocated and I'm now involved in lower level retail projects.'

Percentage of Respondents in Each Group that do <u>not</u> Believe that High Quality Work is Allocated Fairly in their Workplace

	Lawyers	Business Services
Ethnicity		
White men	*15%*	*16%*
White women	*27%*	*14%*
Black men	*29%*	*25%*
Black women	*24%*	*36%*
Asian men	*31%*	*17%*
Asian women	*19%*	*29%*
Mixed race men	*27%*	*17%*
Mixed race women	*35%*	*0%*
Sexual Orientation		
Straight women	*27%*	*16%*
Gay women and lesbians	*27%*	*14%*
Straight men	*15%*	*12%*
Gay men	*18%*	*24%*
Disability		
Disabled men	*14%*	*20%*
Disabled women	*40.0%*	*22%*

SECTION 5

— *Because You're Worth It : Assessment and Reward*

The survey asked a number of linked questions about perceptions of the assessment of achievement and reward, the policies that govern them and the practices that prevail.

—

Less than half (43%) of all respondents believe that achievements and reward are fairly assessed and 19% do not know. Only a scant majority - 51% - of straight white men (the most positive group on this point) agreed that assessment of achievement and reward is fair. Addressing this widespread lack of trust and knowledge must be a priority. Only 45% of all respondents believe that their employer has transparent promotion and reward policies in place but very nearly four in five of respondents (79.8%) are satisfied with those promotion and reward policies. Black men and women are the least likely to be content with their employers' policies and practices in this area and their divergence from the views of white male respondents is remarkably wide.

It has been observed that in certain respects the profession is very successful at rewarding talent according to its own attribution of value to different types of talent and career trajectory. In its current form, the profession seems to share stereotyped expectations of how different groups' careers will develop. The data from this survey and other research suggests for instance that women are useful backroom workers whose career life is seen as inevitably truncated and therefore while a few are promoted

Percentages of all Respondents Who Believe that Achievement and Reward are Fairly Assessed, that Promotion and Reward policies are Transparent and Are Satisfied with those Policies

	Agree that achievements and reward are fairly assessed	Believe that employer has transparent promotion and reward policies in place	Are satisfied with employer's promotion and reward policies
Ethnicity			
White men	*51%*	*54%*	*84%*
White women	*41%*	*43%*	*79%*
Black men	*28%*	*40%*	*50%*
Black women	*30%*	*29%*	*67%*
Asian men	*52%*	*27%*	*100%*
Asian women	*32%*	*31%*	*67%*
Mixed race men	*41%*	*71%*	*75%*
Mixed race women	*32%*	*21%*	*75%*
Sexual orientation			
Straight women	*39%*	*42%*	*78%*
Gay women and lesbians	*40%*	*39%*	*94%*
Straight men	*51%*	*56%*	*83%*
Gay men	*49%*	*44%*	*83%*
Disability			
Disabled men	*20%*	*0%*	*no responses*
Disabled women	*33%*	*56%*	*60%*

thereby diversifying the public image somewhat, the majority effectively support the white male partnerships.[8]

Merit is of course always in the eye of the beholder and we are naturally inclined to ascribe merit to those who are most like ourselves. This again tends to entrench existing hierarchies as we shall see later on when we look at patterns of mentoring and sponsorship.

In a by now familiar pattern, we see that women are more likely to have concerns than men by a wide margin and that ethnic minority lawyers and business services professionals are the groups most likely to have concerns. In other words, our rule of thumb broadly holds true: individuals are less likely to be content with arrangements the further they diverge from the white, male dominant group.

The group most likely to believe that achievement and reward are fairly assessed, that their employer has transparent promotion and reward policies and to be satisfied with those policies are white straight men (52%, 57% and 89%, respectively).

It is perhaps surprising to note that even though respondents are unlikely to believe that promotion and reward policies are transparent, all groups are likely to be satisfied with those policies. This is an area that needs further exploration, but may be explained in part by a finding in the 2010 InterLaw Diversity Forum study in which LGB solicitors reported that they felt 'lucky' to have achieved success rather than feeling that they had earned it.[9]

Only black respondents went below two-thirds being satisfied and at this stage it is important to note that it is in relation to black men that our rule of thumb breaks down as they often report more negative perceptions than black women. This indicates that there remains a great deal of work to be done to address the obstacles that black men face in the legal sector.

50% of men and **40%** of women believe that assessment and reward are fairly assessed, **28%** of men and **37%** of women believe they are not. **19%** of each do not know!

'I am assessed to a large extent on things which are entirely out of my control i.e. billable hours - as a junior lawyer in a small team I simply do whatever work is given to me.'

'Assessment is very subjective where I work and it depends on whether you have a 'champion' or friend in a more senior role or not...'

'Policies which are stated openly for the appraisal process are not borne out in practice. In reality the management board does as it pleases while giving the impression of fairness.'

SECTION 6

— *Do The Twist : Flexible Or Agile Working*

The ability to work flexibly - not working any less, but working smarter and not being desk-bound - can make a huge difference to people juggling other responsibilities outside work. Unsurprisingly, because flexible working is most often needed to accommodate caring responsibilities, women are the group most likely to take it up because they are still overwhelmingly the primary carers for children or others in any family. Informal arrangements are more likely to be used by the person who is not the primary carer (most likely a man) and needs to step in to look after children only when the primary carer (most likely a woman) cannot.

We found that men are in fact much more likely to have informal flexible working arrangements than women, who tend to have formal flexible working arrangements. Those formal arrangements are most commonly designed to allow the woman to work around childcare arrangements, thus shortening the time she spends in the office each day but not necessarily shortening the hours that she works or affecting the quality or volume of work that she does, as flexible workers carry on their work outside the office.

We believe that formal and informal flexible working arrangements are perceived differently by the flexible workers' colleagues, with formal arrangements being viewed negatively as signaling a lack of commitment to one's career or employer.

The table below shows what percentages of those respondents who work flexibly believe it has hindered their career progression. It records the responses only of those who actually do work flexibly and we took care in the questions to distinguish between flexible working and part-time working.

Here, the gender and ethnicity effects are remarkable. Amongst the lawyers, only 4% of straight men who work flexibly believe it has hindered their career while fully 20% of straight women who work flexibly believe it has. No black male respondents believed that flexible working had hindered their career, while 27% of black women working flexibly as lawyers and 20% of black women working flexibly in business services believed that it had.

What is perhaps more remarkable is the difference between the lawyers and business services professionals. In business services, flexible working appears to be accommodated much more successfully. Two very different cultures exist within one sector and by extension within workplaces.

'To be fair to senior management [...] the whole profession has to face up to the diversity issues posed by the long hours culture and the financial targets that flow from that for those who have significant responsibilities out of work as a carer.'
- Anonymous Respondent

31% of men and **21%** of women have informal flexible working arrangements, **6.5%** of men and **17.3%** of women have formal flexible working arrangements. **97%** of men and **80%** of women work full time

	Lawyers	Business Services
Ethnicity		
White men	*5%*	*2%*
White women	*19%*	*7%*
Black men	*0%*	*0%*
Black women	*27%*	*20%*
Asian men	*0%*	*0%*
Asian women	*27%*	*0%*
Mixed race men	*0%*	*0%*
Mixed race women	*27%*	*0%*
Sexual Orientation		
Straight women	*20%*	*7%*
Gay women and lesbians	*17%*	*0%*
Straight men	*4%*	*1%*
Gay men	*6%*	*4%*
Disability		
Disabled men	*7%*	*0%*
Disabled women	*40%*	*14%*

SECTION 7

- The Wind Beneath My Wings : Sources of Support

Mentors, Sponsors and Role Models

Only a minority of respondents in any of the demographic groups has benefitted from having a mentor, sponsor or role model. The most common form is mentoring by somebody inside their organisation. Lawyers are more likely to have had one or more of those people helping their career than business services professionals. Strikingly, male lawyers are the group of respondents most likely to have had a mentor, sponsor or role model. This may be a surprising finding because the most visible, formal mentoring or sponsor programmes tend to be geared to help women and ethnic minorities, but it may also explain the white males' success. So a measure which is seen as key to helping those with an apparent disadvantage to overcome obstacles to career progression seems to be used most by the group that appears to face the least obstacles.

Those who have had a mentor, sponsor or role model have overwhelmingly found them to be 'quite' or 'very' helpful.

Networks

The table to the right shows how useful those who are members of them have found professional networks to be. It shows what percentage of network members found that membership to have benefited their career either 'somewhat' or 'significantly'. In particular professional networks are deemed useful, and it would seem that those for black lawyers are very greatly appreciated by their members, perhaps reflecting black lawyers' perceptions of their need for support in building their careers.

Respondents' perceptions of network membership

	Lawyers finding that professional network membership has benefited their career	Business Services professionals finding that professional network membership has benefited their career
Gender		
All men	*39%*	*34%*
All women	*42%*	*38%*
Ethnicity		
White men	*39%*	*34%*
White women	*42%*	*38%*
Black men	*60%*	*66%*
Black women	*64%*	*33%*
Asian men	*46%*	*33%*
Asian women	*44%*	*36%*
Mixed race men	*17%*	*25%*
Mixed race women	*47%*	*67%*
Sexual Orientation		
Straight women	*43%*	*37%*
Gay women and lesbians	*36%*	*29%*
Straight men	*41%*	*36%*
Gay men	*41%*	*36%*
Disability		
Disabled men	46%	35%
Disabled women	40%	33%

CONCLUSION & RECOMMENDATIONS

This report echoes findings of many other past reports looking at the legal and other business sectors. It underlines the extremely slow progress that is being achieved towards effective inclusion and productive diversity in the sector.

We could make many detailed recommendations for action by organisations in the legal sector, but we feel that the situation is so serious and challenging that there needs to be a strong focus on just one principal recommendation supported by three action points.

Aiming for Change: It's Time for Targets

In view of the startling lack of progress across the sector, **we believe that it is now time for the legal sector to set firm targets for the inclusion of women, ethnic minorities, LGBT and disabled lawyers and business services professionals at all levels and to deliver fair career progression for all.** We note that some law firms have already begun to consider setting targets in relation to specific groups[9] and targets set for the inclusion of women on FTSE 100 Boards seem to be having the desired effect.[10]

This will present a major cultural challenge in the sector, but it is evident that change will only be delivered if individuals across the sector are made clearly accountable for its delivery and that requires robust measures that can be used to assess progress.

We also encourage employers to measure how initiatives are supporting their achievement using such tools at The Law Society Diversity & Inclusion Charter and the Stonewall Work Equality Index.

In the introduction, we set out three key areas of activity that will support progress towards diversity and inclusion in the legal sector. Here we list activities that fall within each area. They are:

Culture

Organisations should set clear expectations for good management and inclusive behaviour by all and make sure that people's performance against those expectations is properly assessed, that good practice is rewarded and failure is addressed.

- Build inclusive behaviours into appraisals in a meaningful way.
- Reward individuals who demonstrate such behaviours and make a positive impact on the business and culture.
- Address failures to reach expected standards of behaviour through bonus systems and training.

Measuring diversity performance in management appraisals should include elements such as:

- Staff turnover rates.
- Sickness absence rates.
- Employee survey on experiences and attitude, including satisfaction rates.
- Employee relation issues.
- Recruitment and progression patterns.
- Flexible working requests and decisions.
- Maternity returner rates and progression rates for maternity returners.

Management Practices

People taking on management responsibilities need high quality training and support to prepare them for those responsibilities and support them as they rise through the ranks. They need to be able to mentor, coach and assess the people they manage in an inclusive way and be aware of unconscious bias.

- Training in good management needs to begin at the earliest stages and ensure that even if management responsibilities are assigned in a relatively informal way, the fledgling managers are properly prepared and supported.
- There is also a need for strong and well-informed and committed leadership from the top of organisations.
- Continuous training in good management is needed at all career stages, especially for those who are in positions where key decisions are made on promotion and advancement.
- Good management practices should be clearly rewarded and failure to meet expected standards addressed robustly.
- There should be investment in rolling programmes of training and awareness-raising to address unconscious bias.

Social Mobility

As a first step, legal employers need to think hard about how to broaden their recruitment pool to ensure that talent is not overlooked simply because it is not sitting in the obvious places. They need to challenge their current template for what makes a "good candidate" and ensure that assessment is based on the actual ability, drive and potential of individuals rather than what is most easily measured or fits into the norm. For example, is A-level achievement really a good guide to likely career success? Another example would be whether a candidate with a foreign secondary education would be excluded automatically under your current system?

Promotion and advancement policies and practices must be reviewed to ensure that they genuinely serve diversity and inclusion, social mobility and drive change.

- Find ways to assess potential and talent from 'non-traditional' sources. Reviewing recruitment processes to ensure that they are not blocking routes to entry. For example, ensure that automatic processes do not weed out candidates from non-traditional backgrounds (including international and older candidates).
- Widen out recruitment efforts to a much wider range of universities, especially focusing on talented candidates from new universities.
- Develop methods of evaluating candidates to find true potential and drive which are better indicators of long term success in the profession, moving away from a reliance on factors which are disproportionately influenced by background and relative advantage.
- Collection and good use of data from the earliest stages of recruitment through to the end of careers to ensure that the diverse groups recruited are progressing up the ranks of your organisation.
- Data findings should be used to develop programmes to address social mobility in the sector. Tackling this challenge effectively will improve diversity in relation to many groups as social disadvantage disproportionately affects certain ethnic minority groups.

APPENDIX

- Numbers of Respondents in Each Group

There were 1,905 respondents in total, 1,233 lawyers and 672 business services professionals.

Women are somewhat over-represented, making up just under two-thirds of respondents. Lesbian/gay woman (4%) andz gay men (8%) percentages are in line with other surveys. Ethnic minority participation is good at nearly 12%. We have not analysed responses from bisexual or transgender respondents because they were so few in number.

	Number of lawyer respondents	Number of business services professionals respondents
Gender		
All men	*489*	*145*
All women	*746*	*373*
Ethnicity		
White men	*437*	*124*
White women	*637*	*324*
Black men	*7*	*4*
Black women	*18*	*16*
Asian men	*26*	*8*
Asian women	47	21
Mixed race men	*12*	*6*
Mixed race women	*36*	*9*
Sexual Orientation		
Straight women	*674*	*357*
Gay women and lesbians	*39*	*8*
Straight men	*364*	*105*
Gay men	*109*	*39*
Disability		
Disabled men	23	5
Disabled women	22	9

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8. Wilkins and Gulati as above

9. The Career Experience of LGB Solicitors, Law Society and the interlaw Diversity Forum, November 2010

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SUGGESTIONS FOR FURTHER READING

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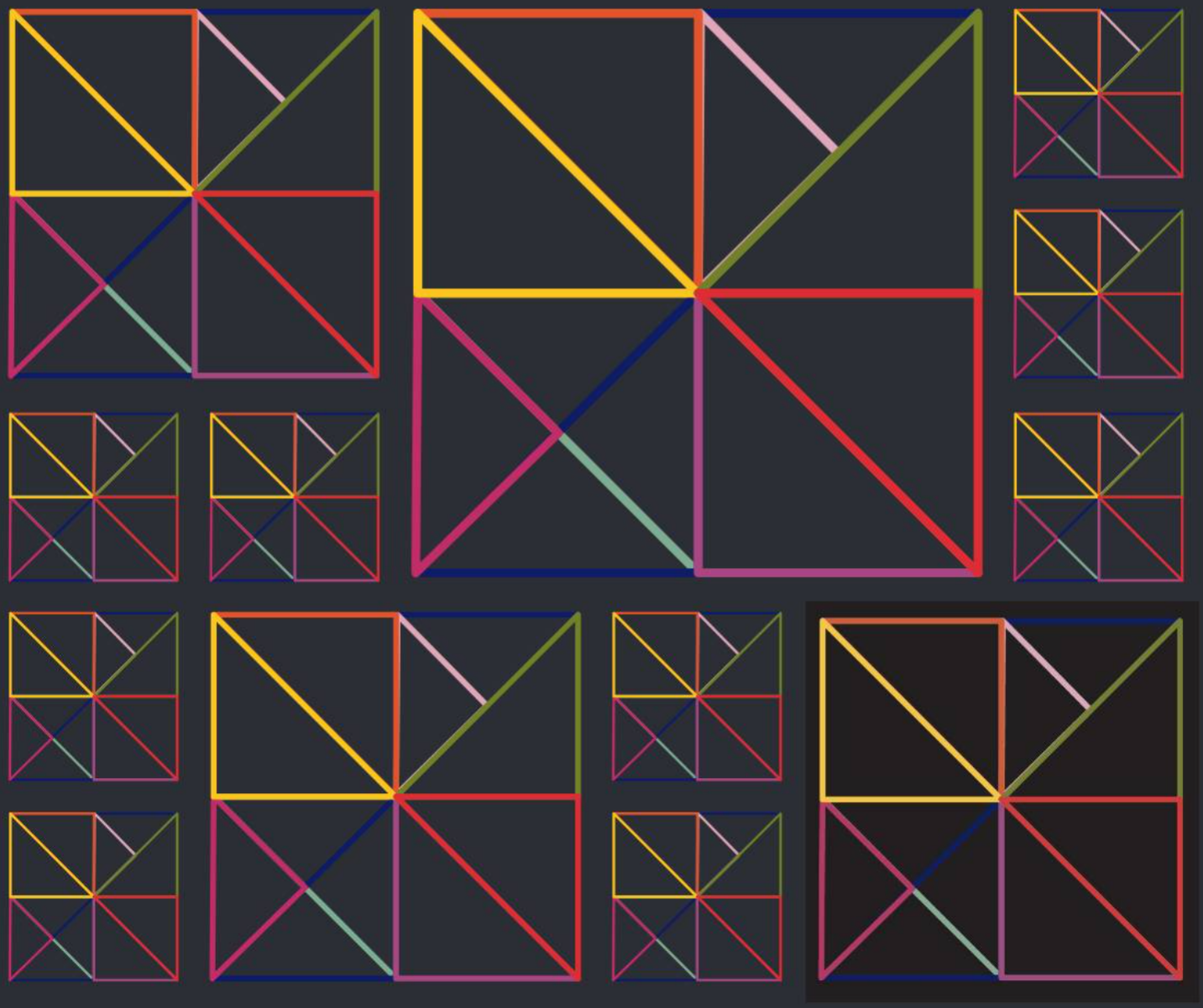
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