

# Judicial diversity: Barriers and initiatives

## Rapid evidence assessment

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**Prepared for: The Ministry of Justice\***

\*The views reflected in this research are not necessarily those of the Ministry of Justice

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# Executive summary

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## Overview

The Ministry of Justice (MoJ), at the request of the Judicial Diversity Forum (JDF), commissioned the National Centre for Social Research (NatCen) to compile and appraise evidence about judicial diversity in England and Wales. The aim of the review was to better understand:

- The barriers to diversity impacting entry, retention, and progression of under-represented groups within the legal professions and the judiciary.
- Existing initiatives designed to overcome barriers and improve diversity within the legal professions and the judiciary, and their effectiveness.
- The barriers to diversity and initiatives undertaken within specified professions outside of the legal sector (i.e. science, engineering, and medicine) to improve diversity.

The research, undertaken in 2020, involved four components:

- A rapid evidence assessment (REA) to identify peer-reviewed and grey literature to obtain evidence on barriers to diversity within the legal professions and judiciary as well the initiatives being undertaken to promote diversity.<sup>1</sup>
- A ‘landscape’ review of the Judicial Diversity Forum (JDF) and JDF partners’ websites to identify relevant information on initiatives and policies promoting diversity, which were in place in 2020.
- A stakeholder consultation to identify hard to reach grey literature and evidence not identified by the REA and landscape review.
- An ‘external review’ to gather information on diversity barriers and initiatives within specified professions outside of the legal sector.

The REA collected evidence identified between 2010 and 2020.

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<sup>1</sup> Methodological caveats: most studies identified through the REA were assessed as low or medium quality. Many of the papers identified were also review or legal opinion pieces, rather than original empirical research or evaluation reports. See section 1.4.6 for further detail on the methodological caveats.

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The four research components yielded a total of 75 documents that were retained for review and inclusion in the report.<sup>2</sup> This report presents a synthesis of evidence from these sources.

## Summary of findings: Barriers to diversity

### 1. Access and recruitment into the legal profession

- Within the traditional legal professions (solicitors and barristers) there is a preference for those who have attended ‘top’ universities (i.e. Oxbridge and Russell Group institutions). This can disadvantage those from lower socio-economic groups and black, Asian and minority ethnic individuals who are more likely to attend ‘newer’ universities with less prestigious reputations.
- Individuals who have attended ‘non-elite’ universities are less likely than their Oxbridge and Russell Group educated peers to have experienced the traditions and formal events that characterise some social activities that form key elements of professional networking. They are also less likely to have had the opportunity to establish informal networks that can be an invaluable source of mentorship within legal professions.
- The high cost of legal training combined with the financial burden of unpaid work experience can present a professional barrier for individuals from lower socio-economic backgrounds.
- Accessibility challenges and limited flexible training options can present barriers for individuals with disabilities at the early stages of a legal career.

### 2. Retention and progression within the legal professions

- Long and inflexible hours was identified as a barrier to both retention and career progression for women and disabled lawyers. For example, this working culture can deter women from returning to legal practice after maternity leave or applying for more senior positions because of caring responsibilities. Where individuals work reduced or flexible hours, this can be viewed as a lack of commitment and ambition, which may limit opportunities for career progression.
- The lack of income security, changeable working patterns, and few maternity benefits afforded to self-employed barristers can deter women from continuing their career at the Bar.
- Although the legal professions are becoming increasingly diverse in terms of some visible diversity characteristics (i.e. gender and ethnicity), this diversity appears to be concentrated in less senior positions and within less ‘prestigious’ and less financially lucrative areas of practice.
- Accessibility and disclosure issues were noted as barriers impacting entry, retention, and progression of disabled lawyers across the legal professions. Lack of reasonable adjustments and accessibility challenges can deter disabled individuals from entering certain areas of the profession (e.g. the evidence base indicated that Chambers are often inaccessible for those with a disability, which may deter some disabled individuals from pursuing a career at the Bar) and/or prompt the decision to leave the legal sector.

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<sup>2</sup> See section 1.4 of the report for methodological details of each research component.

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### 3. Barriers to judicial appointment

- The inflexible working practices and culture of the judiciary, the isolated nature of the work, and reduced earnings were cited as factors that deter both male and female lawyers from applying for a judicial appointment.
- The existence of a professional hierarchy, where barristers are considered the most elite of legal professionals and best suited for judicial appointment, may prompt solicitors and Chartered Legal Executives to 'self-select out' of the judicial appointment process.
- The evidence points to a 'trickle-up effect' where barriers to diversity at entry, retention, and progression across the legal professions reduces the diversity of the judicial candidate pool.
- The evidence suggested that a lack of openly Lesbian, Gay Bisexual, Trans, Queer, plus other identities (LGBTQ+) judges may deter some LGBTQ+ lawyers from applying for judicial office.
- There is a view that individuals' ethnicity, gender, sexual orientation, educational background, and professional background are areas of bias affecting judicial appointment decisions.

### 4. The principle of merit

- Under the Constitutional Reform Act 2005 candidates for judicial appointment must be selected 'solely on merit'. However, the evidence suggested that there is limited guidance on how to assess merit for judicial appointments, meaning that the concept of 'merit' is poorly defined. This lack of clarity may lead to subjective interpretations of merit, which may limit progress towards diversity within the legal professions and the judiciary.

## Summary of findings: Initiatives promoting diversity

### 1. Initiatives within the wider legal professions

- Initiatives focused on reducing barriers to diversity at entry to the legal profession concentrate on overcoming barriers related to social mobility, and include insight schemes for school and university students, work experience placements, and targeted outreach events.
- Initiatives targeting barriers to retention and progression of under-represented groups within the legal professions focus on making employees feel recognised, represented, and supported in their workplace.

### 2. Initiatives to promote diversity by JDF partners

- Initiatives undertaken by JDF partners focus primarily on encouraging under-represented individuals to apply for judicial appointment by providing potential applicants with greater insight into the role of a judge and how the judicial application process works, as well as preparing candidates with the skills and competencies required for success (i.e. judicial appointment).
- At the application and selection stages of judicial appointment, activities centre on eliminating discrimination and ensuring fair and transparent processes. For example, name-blind sifting of applications; 'equality proofing' of selection materials to ensure appropriate content and tone; diversity checkpoints to monitor the



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progression of under-represented groups throughout the selection process; and use of the equal merit principle at both shortlisting and final decision-making.

- Schemes to retain under-represented individuals once appointed to the judiciary include salaried part-time working and the introduction of options for flexible working.

### **Summary of findings: The effectiveness of existing diversity initiatives**

- Improvements in diversity appear to be concentrated within the more junior ranks of the professions.
- There is a lack of formal evaluation work to assess the efficacy of diversity initiatives. At present, any improvements in diversity cannot be directly attributed to specific initiatives.
- There is a lack of clear guidance from the JDF on what the desired outcomes of diversity initiatives should be or how they should be measured, limiting opportunities for robust evaluation.

### **Summary of findings: Diversity within other professions**

- The barriers to diversity at entry, retention, and progression within the science, engineering, and medical professions are broadly similar to those identified within the legal professions and judiciary.
- Diversity initiatives include increasing the visibility of role-models from under-represented groups; networking and support groups; diversity champions; reviews of current practices and policies to remove barriers; sharing best practice; changes to recruitment processes; to reduce unconscious bias; and changes to training routes and curriculum to improve accessibility.
- There is a need for robust evaluation to measure the efficacy of these initiatives to improve diversity.

### **Recommendations and areas for consideration**

The findings presented in this report highlight a number of recommendations and areas for consideration by the MoJ and partners. These include:

- Address the deep-rooted elements of the professional culture that continue to disadvantage under-represented groups (e.g. traditionally 'masculine' professional networking events and activities).
- Address elitism and bias within the legal professions and judiciary, which can deter individuals from under-represented groups from entering the legal professions or applying for judicial appointment.
- More work should be undertaken to improve knowledge of physical, sensory, and learning disabilities so the needs of lawyers with disabilities are met.
- The financial cost of legal training continues to be prohibitive for individuals from less advantaged socio-economic backgrounds. Increasing the provision of initiatives that provide financial support for legal training is recommended.
- Increase knowledge of the experiences and barriers faced by individuals with less visible (or 'hidden') diversity characteristics.

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- Carry out research to develop a better understanding of diversity within the pool of judicial applicants and their experiences of the judicial application and selection process to provide context to differential performance and outcomes.
  - Undertake robust evaluation of diversity initiatives so that effectiveness can be measured.

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# 1. Introduction

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## 1.1 Background and context

The legitimacy of the legal system is contingent on the judiciary, and the legal professions more broadly, being representative of the society it serves (Gee & Rackley, 2017; Milburn, 2012; Paterson & Paterson, 2012). The more diverse the judiciary, the more confidence the public will have that justice will be delivered equally to all (Zimdars, 2011). Further, judicial diversity is considered necessary for maintaining quality within the legal system and attracting the best talent to key roles (Judiciary of England and Wales, 2019a).

Barristers, solicitors, and Chartered Legal Executives represent the legal professions permitted to apply for judicial office, subject to certain eligibility requirements. Key eligibility criteria can be grouped into three categories (The Law Society, 2019a; Ministry of Justice, 2020):

- A minimum of five years of post-qualification experience of legal practice as a barrister, solicitor, or Chartered Legal Executive.<sup>3</sup> Judicial posts within this category include District judges and Deputy District judges.
- A minimum of seven years of post-qualification experience of legal practice as a barrister or solicitor. Judicial posts within this category include Recorders and High Court judges.
- Previous judicial experience. Judicial posts within this category include Court of Appeal judges.

Individuals from across the legal professions who meet the eligibility requirements form the pool from which candidates for judicial appointment are selected. Since April 2006, judicial appointments have been the responsibility of a Judicial Appointments Commission (JAC). The JAC is an independent body that oversees the selection process for most judicial posts in England and Wales,<sup>4</sup> and has a statutory duty to “encourage diversity in the range of persons available for selection for appointments.”<sup>5</sup> The selection process involves a number of stages: an application stage, a shortlisting stage (a paper sift by a selection panel and may also include qualifying tests and/or a telephone assessment)<sup>6, 7, 8</sup> and a selection day for shortlisted candidates.<sup>9</sup> Following the selection day, a committee made up of JAC commissioners will decide which candidates to recommend for judicial appointment to the Appropriate Authority.<sup>10</sup>

The legal professions have traditionally been dominated at all levels by Oxbridge educated white men (Bindman & Monaghan, 2014), and the lack of diversity within the judiciary is a long-standing concern (Wilson, 2013).

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<sup>3</sup> While Chartered Legal Executives may apply for judicial office, they may only apply for judicial roles up to the level of District Court Judge.

<sup>4</sup> See: <https://www.judicialappointments.gov.uk/what-jac-does>

<sup>5</sup> See: <https://www.judiciary.uk/about-the-judiciary/our-justice-system/jud-acc-ind/jud-appts/>

<sup>6</sup> See: <https://www.judicialappointments.gov.uk/shortlisting>

<sup>7</sup> See: <https://www.judicialappointments.gov.uk/qualifying-tests>

<sup>8</sup> See: <https://www.judicialappointments.gov.uk/telephone-assessments>

<sup>9</sup> See: <https://www.judicialappointments.gov.uk/selection-day>

<sup>10</sup> See: <https://www.judicialappointments.gov.uk/selection-decisions>

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However, there is evidence that the judiciary is gradually becoming more diverse, particularly in terms of visible diversity characteristics. Statistics available from the MoJ at the time of this research (2020)<sup>11</sup> showed that as of April 2020, 32% of court judges are women (an increase of 8 percentage points from 2014) and 47% of tribunal judges are women (an increase of 4 percentage points since 2014). Similarly, MoJ data from April 2020 showed that black, Asian and minority ethnic judges represent 8% of court judges (an increase of 2 percentage points since 2014) and 12% of tribunal judges (an increase of 2 percentage points since 2014).

Notwithstanding some improvements, equality and diversity in the judiciary and legal professions remains a concern. For example, the most prominent increases in diversity appear to be concentrated in less senior positions and within less 'prestigious' and less financially lucrative areas of practice (Ashdown, 2015; Barmes & Malleson, 2011; Bindman & Monaghan, 2014; Sommerlad, 2015). If the increased diversity within the more junior ranks of the legal professions does not 'trickle up' to the more senior roles, the diversity of the pool of eligible candidates for judicial appointment will remain narrow (Bindman & Monaghan, 2014; Milburn, 2012). Furthermore, law reform and human rights group JUSTICE (2020)<sup>12</sup> argued that despite evidence of improved judicial diversity, progress in some areas has remained slow. Although gender equality has seen positive developments over recent years, there has been a stagnation in the appointment of black, Asian and minority ethnic judges and a lack of representation of those from lower socio-economic backgrounds (JUSTICE, 2020). The report by JUSTICE also highlighted a lack of data and information on equality issues related to disability and sexual orientation.

These concerns mean that more needs to be understood about:

- The barriers to diversity impacting access to and progression of under-represented groups within the legal professions.
- The barriers to diversity impacting the application and selection stages of judicial appointment.

The JDF brings together partner organisations to identify and develop ways to improve diversity within the legal professions more broadly, as well as within the judiciary.<sup>13</sup> This has included undertaking a wide range of programmes and initiatives to promote diversity. Examples include: engagement with schools to inform children of the different careers available to them; scholarships to fund the cost of the Legal Practice Course (LPC) for university students from less advantaged socio-economic backgrounds; judicial work shadowing and mentoring schemes; and support to prepare an application for judicial appointment. However, little is known about the efficacy of existing initiatives to improve diversity. Therefore, more needs to be understood about:

- The range of initiatives that are focused on increasing the diversity of the legal professions and the judiciary.
- Whether there is evidence of the effectiveness of these initiatives, and if so, how effective they have been in improving diversity.

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<sup>11</sup> <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>

<sup>12</sup> JUSTICE is a membership organisation, composed largely of legal professionals, ranging from law students to the senior judiciary.

<sup>13</sup> JDF partner organisations: Judicial Appointments Commission, Ministry of Justice, the Judicial Office/Judiciary, the Bar Council, The Law Society, CILEX, and the Legal Services Board.

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## 1.2 Research aims

In 2020, the MoJ, at the request of the JDF, commissioned NatCen to compile and appraise evidence on:

- The barriers to diversity impacting entry, retention, and progression of under-represented groups within the legal professions and the judiciary.
- Existing diversity initiatives designed to overcome barriers to diversity and improve diversity within the legal professions and the judiciary.
- The effectiveness of these existing diversity initiatives.
- The barriers to diversity and initiatives undertaken within professions outside of the legal sector to improve diversity.

The findings from this research are intended to:

- Inform future judicial diversity monitoring and evaluation frameworks.
- Shape future initiatives and policies aimed at promoting judicial diversity.

## 1.3 Research approach

The research comprised four components that were carried out concurrently to identify evidence published between 2010 and 2020:

- **Component 1:** An REA of peer-reviewed and grey literature<sup>14</sup> to obtain evidence on:
  - Barriers to diversity within the legal professions and the judiciary (particularly with regard to access, retention, and progression).
  - Initiatives undertaken by JDF partner organisations to promote diversity within the legal professions as well as within the judiciary.
  - Initiatives undertaken within the legal professions to promote diversity that are not part of the initiatives undertaken by JDF partner organisations (e.g. initiatives implemented by individual law firms).
- **Component 2:** A 'landscape' review of JDF and JDF partners' websites, and the websites of relevant campaigning and interest organisations, to obtain evidence on initiatives and policies that promote diversity.
- **Component 3:** A stakeholder consultation to identify hard to reach grey literature and evidence not detected in the searches carried out for the REA and landscape review.

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<sup>14</sup> A general term for various documents and reports published without scientific peer review (e.g. government papers, discussion notes, readouts from events and conferences).

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- **Component 4:** An 'external review' to gather information on diversity initiatives undertaken within specified professions outside of the legal sector.

## 1.4 Methodology

### 1.4.1 Rapid evidence assessment

An REA is a method used to collate, integrate, and synthesise available and accessible research evidence on any given policy concept or issue, as comprehensively as possible but within a limited timeframe (Davies, 2003).

The aims and objectives of REAs are to:

- Consider widely and comprehensively the relevant electronic and print based literature (within specified parameters).
- Identify, record, and exclude evidence that is considered of poor quality.
- Integrate descriptive outlines of the evidence available on a specific topic.
- Critically evaluate the evidence identified.
- Summarise the information, linked to project-specific research aims.

This REA was conducted in four stages:

- **Pilot search and identification:** the pilot stage tests the strength of search strings and the inclusion / exclusion criteria by assessing the volume and relevance of returns. The pilot stage followed the steps and processes outlined below on a single database; any amendments required to the search strategy were incorporated into the searches of the remaining databases (see Appendix A for the databases searched).
- **Evidence identification:** this process included setting parameters and specifications to determine the inclusion/exclusion criteria for evidence (see Appendix B). The setting of these criteria was followed by finalising the search terms linked to the research questions (see Appendix C).
- **Evidence screening and weighting:** the first stage of screening involved appraisal of the titles returned from each database search. Titles were assessed against the inclusion/exclusion criteria and checked for relevance against the research questions. The abstracts and executive summaries of the documents retained at the title screening stage were then appraised. Finally, any document still included was read in full to check for relevance. Documents retained for final inclusion then underwent an evidence extraction process whereby key information was entered into an extraction sheet and organised into various categories, including: author(s), year of publication, country of origin, methodological approach, brief summary of content, information relevant to the research questions, and a weight of evidence (WoE) score (see Appendix D). Overall, 26 documents were retained for final inclusion (summaries of the literature included in the REA can be found in Table E:1 of Appendix E).
- **Narrative development and integration:** in producing the final report, information collected to address each of the research questions was synthesised into thematic narratives. The information was then organised in

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response to the research questions. Following this, the narratives were embedded within chapters and revisited to check the synthesis for quality, sensitivity, coherence, and relevance.

#### **1.4.2 Landscape review**

The landscape review allowed for a more targeted consideration of initiatives that have been implemented by JDF partners to promote diversity and to obtain additional information on diversity-related barriers. The landscape review involved a search of each of the JDF partners' websites, as well as the websites of select relevant organisations, to identify publicly available documents relevant to the promotion of diversity (see Appendix F for a list of organisations). Identified documents were assessed against the inclusion and exclusion criteria used to assess REA sources, and were further scrutinised for relevance before evidence was extracted and organised in the same manner as the REA evidence; 30 documents were retained for inclusion (summaries of the documents included can be found in Table E:2 of Appendix E).

#### **1.4.3 Stakeholder consultation**

A stakeholder consultation was carried out to identify hard to reach evidence that did not appear in the searches undertaken for the REA or landscape review. The NatCen research team prepared a 'call for evidence' document that was sent out by the MoJ to 15 relevant stakeholders (identified by the MoJ and JDF). We received five stakeholder responses.

In addition to the call for evidence, stakeholders were invited to take part in a short anonymous survey where they had the opportunity to provide views on the topic of judicial diversity. Questions focused on views and experiences of:

- The successes of existing judicial diversity initiatives.
- The challenges faced by existing judicial diversity initiatives.
- The challenges/barriers to improving judicial diversity.
- What could be done to improve judicial diversity further.

We received four stakeholder responses to the survey. Three stakeholders provided direct responses to survey questions within their response to the 'call for evidence' exercise (although there was some duplication across survey responses and responses to survey questions provided within the call for evidence submissions).

Survey and call for evidence responses were qualitative in nature and were therefore analysed thematically and synthesised within the main chapters of the report.

#### **1.4.4 External review**

An 'external review' provided the opportunity to gather information on diversity initiatives undertaken within professions outside of the legal sector. The aim of the external review was to obtain a snapshot of barriers and diversity initiatives in specified professions in order draw comparisons (where appropriate) and to identify elements of good practice that may be transferable to the legal profession. The professions included in the external review were specified by the MoJ and included science, engineering, and medicine.

Key governing bodies within these professions were identified and their websites searched for publicly available documents relevant to the promotion of diversity within the profession (see Appendix G). Identified documents

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were assessed against the inclusion and exclusion criteria used in the REA and were further scrutinised for relevance before evidence was extracted and organised in the same manner as the REA evidence; 19 documents were retained for inclusion (summaries of the documents included can be found in Table E:3 of Appendix E).

It should be noted that the external review was not the primary focus of this research exercise, therefore the search strategy and resulting evidence presented provides a more 'top-level' overview than the other research components.

#### **1.4.5 Synthesis of evidence**

The evidence obtained from the four research components was synthesised and organised into thematic narratives. Each chapter of the report addresses a single research question, and presents the relevant evidence obtained from the applicable research component/s.

#### **1.4.6 Methodological caveats**

Only one paper identified through the REA was weighted as high quality under criteria used by NatCen in judging the weight of evidence (as described in Appendix D). This also included a phase of 'inter-rater' reliability in scoring the evidence, where two researchers considered a subsample of the sources and weighted them independently. All discussion papers and opinion pieces were rated as low on the '*appropriateness of design and analysis for current research*' score. Many of the papers identified were review or legal opinion pieces, rather than original empirical research or evaluation reports. While discussion, review, and opinion pieces are informed by relevant knowledge and experience of the subject matter, they (typically) lack methodological rigor and objectivity, and are therefore more vulnerable to hidden bias.<sup>15</sup>

As noted in section 1.4.1., an REA is a form of evidence review that identifies, assesses, and synthesises available and accessible evidence on a specific topic as comprehensively as possible, but within a short timeframe. The rapid and streamlined nature of REAs means that certain parameters (i.e. inclusion / exclusion criteria) are necessary. As such, an REA may omit relevant literature that does not fit within the agreed parameters of the review process.

#### **1.4.7 Note on references to those from black, Asian and ethnic minority backgrounds**

In March 2021, the Commission on Race and Ethnic Disparities recommended that the government stop using the abbreviated term 'BAME'.<sup>16, 17</sup> Wherever possible, when writing about ethnicity, aggregated terms such as black, Asian and ethnic minority, should be avoided. However, since the research for this report was carried out prior to the latest guidance and refers to historic evidence, disaggregation of the results was not possible. The term 'BAME', however, has been replaced with 'black, Asian and ethnic minority' except where evidence has been directly referenced in its original form (for example in the Appendices).

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<sup>15</sup> On a continuum of rigor, literature reviews are considered to be low in rigor because they tend to present select coverage of a topic that supports the author/s opinion. By comparison, systematic reviews are considered to be more rigorous because they present greater representative and systematically selected evidence from a neutral perspective.

<sup>16</sup> See: <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities/summary-of-recommendations#recommendation-24-%20%20%20%20%20%20%20%20%20%20%20disaggregate-the-term-bame>

<sup>17</sup> See: <https://www.ethnicity-facts-figures.service.gov.uk/style-guide/writing-about-ethnicity>



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## 1.5 Report overview

**Chapter 2: Barriers to diversity.** This chapter synthesises the evidence base regarding barriers to diversity within the legal profession as a whole, as well as within the judiciary. Barriers relating to access and recruitment to, and retention and progression within, the legal professions and the judiciary are presented.

**Chapter 3: Initiatives promoting diversity.** This chapter presents the evidence relating to the initiatives undertaken by JDF partners to promote diversity. Evidence regarding initiatives to promote diversity within the legal professions more generally is also presented.

**Chapter 4: The effectiveness of existing diversity initiatives.** This chapter explores the effectiveness of existing diversity initiatives within the legal professions and the evidence relating to the success of diversity initiatives undertaken by JDF partners.

**Chapter 5: Diversity within other professions.** This chapter presents an overview of barriers to diversity and initiatives within the science, engineering, and medical professions to improve diversity.

**Chapter 6: Conclusion.** The report concludes with a summary of key findings and recommendations and areas for consideration.

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# 2. Barriers to diversity

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## Chapter summary

- Within the traditional legal professions there is a **preference** for those who have attended **‘top’ universities**. This can disadvantage those from lower socio-economic groups and black, Asian and ethnic minority individuals who are more likely to attend ‘newer’ universities with less prestigious reputations.
- Individuals who have attended **‘non-elite’ universities** are **less likely** to have experienced the traditions and formal events that characterise the Inns of Court, or the social activities that form **key elements of professional networking**.
- The **high cost of legal training** combined with the financial burden of unpaid work experience can present a professional barrier for individuals from lower socio-economic backgrounds.
- **Accessibility challenges** and **limited flexible training** options can present barriers for individuals with disabilities at the early stages of a legal career.
- **Long and inflexible hours** was identified as a barrier to both retention and career progression for women and disabled lawyers. Where individuals work reduced or flexible hours, this can be viewed as a lack of commitment and ambition, which may limit opportunities for career progression.
- The **lack of income security, changeable working patterns**, and few **maternity benefits** afforded to self-employed barristers can deter women from continuing their career at the Bar.
- **Diversity** appears to be **concentrated in less senior positions** and within less ‘prestigious’ and less financially lucrative areas of practice.
- **Accessibility and disclosure issues** were noted as barriers impacting entry, retention, and progression of disabled lawyers across the legal professions.
- **The existence of a professional hierarchy**, where barristers are considered the most elite of legal professionals and best suited for judicial appointment, may prompt solicitors and Chartered Legal Executives to **‘self-select out’** of the judicial appointment process.
- The evidence suggested that a **lack of openly LGBTQ+ judges** may deter some LGBTQ+ lawyers from applying for judicial office.
- There is a view that individuals’ ethnicity, gender, sexual orientation, educational background, and professional background are areas of **bias affecting judicial appointment** decisions.

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- The evidence suggested that there is limited guidance on how to assess merit; as such, the concept of **'merit'** is **poorly defined** for judicial appointments. This lack of clarity may lead to subjective interpretations of merit, which may limit progress towards diversity within the judiciary, as well as the legal professions.

This chapter presents the evidence base regarding barriers to diversity within the legal profession as a whole, as well as within the judiciary. The chapter is organised into the following three sections: access and recruitment into the legal professions, retention and progression within the legal professions, and judicial appointment. Within each section, the barriers to diversity at each level of the legal profession are presented thematically. While the evidence is organised thematically, it is often the case that factors combine; therefore, where relevant, the intersection of barriers is presented. The chapter closes with a discussion of the principle of merit and whether the notion of merit aids or hinders diversity within the legal professions and the judiciary.

## 2.1 Access and recruitment into the legal professions

Within the evidence reviewed, the barriers to diversity at entry into the legal professions centred on factors that can affect social mobility, namely: socio-economic background, education, ethnicity and the intersection between these characteristics. Barriers related to disability were also identified and are discussed below. The limited evidence regarding age and gender-related barriers is also presented.

### 2.1.1 Socio-economic background, education, and ethnicity

Qualitative evidence indicated that viewing law as a profession that favours individuals from privileged socio-economic backgrounds is a key barrier faced by individuals at the early stages of a legal career (Kotecha, Chidley, Hudson, & Husain, 2017; McKee Nir, Alexander, Griffiths, & Hervey, 2018), and can deter those from less privileged backgrounds from pursuing a legal education (Sommerlad, 2015; Sullivan, 2010). Within this section, the ways in which socio-economic background can manifest as a barrier to access to a legal career, including how socio-economic background can intersect with educational background and ethnicity to further compound the disadvantage faced by some individuals are presented.

#### *Preference for an 'elite' education*

Evidence within the literature indicated that the traditional legal professions (solicitors and barristers) continue to show a preference for those who have attended 'top' universities, namely Oxbridge and Russell Group institutions (Milburn, 2012; Mountford-Zimdars & Flood, 2016; Sommerlad, 2015; Sommerlad, Webley, Duff, Muzio, & Tomlinson, 2010; Sullivan, 2010). The literature illustrated several ways that preference for those who have attended 'elite' universities can present a barrier to accessing a legal career:

- An offer to study for an undergraduate degree at a top university is based (in part) on the prediction of outstanding academic achievement at A-level. However, Ferguson (2017) reported that the predicted A-level grades of state educated individuals are more likely to be lower than the grades they achieve, while their privately educated peers are more likely to achieve lower grades than predicted. Therefore, the tendency for the predicted A-level grades of privately educated individuals to be inflated can result in more privately educated individuals receiving an offer to study at a top university than state educated individuals. It follows that individuals from less privileged backgrounds are more likely to attend 'newer' universities with less prestigious reputations (Sommerlad, 2015; Vaughan, 2015).

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- Zimdars (2011, p. 599) argued that the “social imbalance within higher education” sets the foundation for the imbalance in the opportunity structure of the legal profession, which maintains a preference for recruits who have received an ‘elite’ education. The advantage of attending a top-ranking university can be seen during the pupillage application and selection process:
    - Kotecha et al. (2017) conducted in-depth interviews with 25 Bar Professional Training Course (BPTC) students and 25 pupillage applicants with a focus on the views and experiences of black, Asian and minority ethnic individuals and individuals from lower socio-economic groups.<sup>18</sup> They found that participants believed that the combination of socio-economic background and education to feed into a two-tier system of elitism and exclusivity that appears at the early stages of a legal career. The ‘top’ tier of the system comprises individuals from more privileged backgrounds who have attended private schools and elite universities, while the lower tier comprises individuals from less privileged backgrounds. Participants thought that those in the ‘top’ tier are favoured in the pupillage application and selection process.
    - Zimdars (2011) analysed data from 2,178 entrants to the legal Bar of England and Wales to identify which individual factors predicted success in the competition for entry to the Bar. Zimdars found that in addition to high educational attainment and high attainment in the Bar Vocational Course (BVC), attending a more ‘prestigious’ university (i.e. an Oxbridge or Russell Group institution) was a strong predictor of gaining pupillage.<sup>19</sup>
    - Blackwell (2015) cited evidence showing a strong association between the award of pupillages and an Oxbridge education. Similarly, Dursi (2012) and McKee et al. (2018) noted that trainee barristers are more likely to have attended a private school and graduated from Oxbridge.
  - The evidence suggested that attending a state school and/or a less prestigious university can be barriers to gaining an entry-level position at a top law firm. Several authors noted that the pool of entry-level recruits at most elite law firms is dominated by individuals who have attended private schools and top-ranking universities (Ashdown, 2015; Barmes & Malleson, 2011; Ferguson, 2017; McKee et al., 2018; Vaughan, 2015).
  - It is possible to enter the legal profession without a university degree, for example, the Chartered Institute of Legal Executives (CILEX) provides legal training for individuals who do not hold a degree (Milburn, 2012). However, a report by Milburn (2012), noted that some CILEX fellows viewed their legal education to be a barrier to access and progression within the sector.

### *The intersection of socio-economic background, education, and ethnicity*

The evidence indicated that for some individuals, socio-economic background can intersect with educational background and ethnicity to further compound the barriers faced by those wanting to enter the legal profession. Sullivan (2010) cited research that found black, Asian and minority ethnic law students are more likely to be from less privileged backgrounds than their white peers. The literature also highlighted how the preference for an elite education can create an additional barrier. Ashdown (2015), Vaughan (2015) and Ward, Winterfeldt and Moran

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<sup>18</sup> The BPTC is the vocational stage of legal training to become a barrister (following a law degree or Graduate Diploma in Law [GDL] for those who do not have a law undergraduate degree). Following successful completion of the BPTC, individuals can be called to the Bar of England and Wales to begin the pupillage stage of training. Pupillage is the work-based component of training required for an individual to be able to practise as a barrister. From September 2020 the BPTC has been replaced by new Bar courses. See further: <https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister.html>

<sup>19</sup> The BPTC was previously called the BVC.

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(2012) noted that black, Asian and minority ethnic individuals are more likely than white individuals to attend newer universities that are considered less prestigious than Oxbridge and Russell Group institutions. Analysis of factors predicting entry to the Bar conducted by Zimdars (2011) also found that individuals from ethnic minority backgrounds experienced a disadvantage in the competition for pupillage. However, further analysis found that the disadvantage disappeared when educational attainment and type of university attended were controlled for. Thus, all things being equal (i.e. matched on educational attainment and university attended), black, Asian and minority ethnic students had the same chance of gaining pupillage as their white peers. However, as black, Asian and minority ethnic individuals are less likely to attend an 'elite' university they are likely to be indirectly disadvantaged in the competition for pupillage via the mediating factor of university attended.

While the stakeholder evidence was limited, it corroborated the evidence from the literature regarding the structural barriers that impact entry, retention, and progression within the legal professions associated with socio-economic background, education, and ethnicity.

### *Professional culture*

Qualitative research conducted by Kotecha et al. (2017) reported that the culture, traditional rituals, and lack of ethnic diversity at the Inns of Court can be isolating and intimidating for black, Asian and minority ethnic individuals and those from less privileged socio-economic backgrounds.<sup>20</sup> The authors suggested that individuals from 'non-elite' universities are less likely than their Oxbridge educated peers to have had experience of the traditions and formal events that characterise the Inns of Court. Similarly, earlier qualitative research by Sommerlad et al. (2010) found that individuals who had been privately educated and had attended Oxbridge were better able to navigate the culture of the socialising and networking events that form an important part of being a member of one of the Inns of Court.

### *Informal networks*

Within the literature, informal networks are recognised as a key factor for successful access to, and progression within, the legal professions (Sommerlad, 2012; Sommerlad et al., 2010). At the early stage of a legal career, informal networks can help individuals identify and create opportunities for work experience placements, as well as provide advice on how to prepare a successful application (Kotecha et al., 2017). However, individuals who have not attended Oxbridge and/or are from less privileged socio-economic backgrounds may not have had the same opportunities to establish these informal networks (Dursi, 2012; Kotecha et al., 2017; Sommerlad, 2012; Sullivan, 2010). For example, qualitative research by Kotecha et al. (2017, p. 36) found that within the context of applying for pupillage, some participants believed that 'elite' universities provide "an exceptional level of support and guidance for law students by harnessing existing contacts to barristers who were alumni of these universities."

### *Cost of training*

Formal work experience placements are crucial at the beginning of a legal career (Dursi, 2012). However, Ashdown (2015) noted that legal work experience is often unpaid. Thus, the high cost of legal training combined with the financial burden of unpaid work experience can present a professional barrier for individuals from lower socio-economic backgrounds (Ashdown, 2015; Kotecha et al., 2017). Moreover, the travel costs associated with

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<sup>20</sup> There are four Inns of Court, all of which are located in London: The Honourable Society of The Inner Temple; The Honourable Society of The Middle Temple; The Honourable Society of Gray's Inn; and The Honourable Society of Lincoln's Inn. The Inns of Court are the professional memberships associations for barristers in England and Wales. In order to practise as a barrister, an individual who has completed the required academic and vocational legal training must be called to the Bar by one of the Inns of Court.

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attending training sessions (e.g. to complete the twelve qualifying sessions requirement of the Inns of Court in London) can be prohibitive (Kotecha et al., 2017).

### **2.1.2 Disability**

The literature contained very little evidence on the barriers faced by disabled individuals upon entry to the legal profession. However, one research report by Foster and Hirst (2020) provided some useful insights using a mixed-methods approach comprised of 55 in-depth interviews, eight focus groups, and a survey of 288 solicitors, paralegals, and barristers (214 solicitors or paralegals; 47 barristers).

At the early stages of a legal career, identified barriers relate to concerns regarding accessibility and disclosure. For example, one view was that Chambers are often inaccessible for those with a disability, which has deterred some individuals from pursuing a career at the Bar.<sup>21</sup> Similarly, participants reported that requesting reasonable adjustments when applying for training was difficult due to limited opportunities to do so. Moreover, some individuals with non-visible disabilities reported feeling conflicted about asking for reasonable adjustments due to the fear that to do so would place them at a disadvantage. For example, Foster and Hirst (2020) reported that some individuals had avoided disclosing their disability until they reached a senior position.

The lack of flexible training opportunities was noted as a barrier faced by disabled lawyers at the beginning of their careers (Foster & Hirst, 2020). While some individuals had undertaken flexible training via the CILEX route, it was reported that individuals felt excluded from traditional training routes.<sup>22</sup> However, as noted in section 2.1.1, the CILEX training route is regarded by some employers to be less prestigious than more traditional routes undertaken by solicitors and barristers, and so can present a barrier to subsequent employment (Milburn, 2012).

Foster and Hirst (2020) also reported that some disabilities are viewed as incompatible with the legal profession. An example provided was of an individual with a speech impediment who was told that he was not suited to a career as a barrister, which typically requires significant time speaking in court. Being exposed to this type of attitude may deter people from pursuing their chosen field within the legal profession, leading to professional exclusion where those with a disability are steered towards particular areas of the law, regardless of preference.

### **2.1.3 Age and gender**

There was a lack of comprehensive evidence about barriers to entry to the legal professions related to age and gender. However, the analysis by Zimdars (2011) found that individuals aged 31 or over were less successful at gaining pupillage than their younger counterparts.

Within the literature, barriers faced by women in the legal professions centred on retention and progression within the field. Section 2.2.1 provides a more extensive consideration of the barriers to progression faced by women. However, within the context of entry to the profession, there is evidence that while large numbers of women are studying law (Ashdown, 2015), women face exclusion as they attempt to secure entry-level positions. For example, Ashdown (2015) and Sullivan (2010) noted that male trainee solicitors are more likely to secure a training contract with a large law firm than women.

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<sup>21</sup> Accessibility refers to access for wheelchair users, as well as access for individuals with physical, sensory, or learning disabilities.

<sup>22</sup> For example, CILEX legal qualifications are more affordable than the traditional route of an undergraduate degree and post-graduate legal qualification, with many employers also providing funding so that students can continue working while studying. CILEX students can also undertake distance learning so that studying for a legal qualification can fit around other commitments. For more information visit <https://www.cilexcareers.org.uk/>

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## 2.2 Retention and progression within the legal professions

Within the evidence reviewed, the barriers to retention and progression of under-represented individuals within the legal profession centred on factors associated with gender; socio-economic background, education, ethnicity and their intersection; and disability.

### 2.2.1 Gender

Barriers to retaining women within the legal profession as well as women's progression within the field were identified in the literature. They centred on professional culture and working practices, professional exclusion, and gender norms and expectations.

#### *Professional culture and working practices*

##### *Long and inflexible hours*

The culture of long hours, the expectation of '24/7' availability, and the lack of flexible working were identified as factors that present a barrier to both the retention and progression of women within the legal profession (Sommerlad, 2012; Ward et al., 2012). This barrier is thought to affect women more so than men because of the greater tendency for women to be the primary caregivers of children (Treanor, 2020; Sommerlad, 2012; Sommerlad et al., 2010). Ashdown (2015) noted that the general inflexibility of working patterns within the legal sector can deter women from returning to legal practice after maternity leave or applying for more senior positions. Moreover, working long hours is considered a proxy for commitment and ambition within the legal professions (Kumra, 2015). Iyer (2013) reviewed evidence showing that women who take maternity leave or who work flexible hours in order to take care of their children, are viewed as less committed and ambitious than their male peers. In turn, the combination of part-time or flexible working hours and a perceived lack of commitment can limit the career progression opportunities made available to women (Barnes & Malleson, 2011; Iyer, 2013; The Law Society, 2019b; Sommerlad et al. 2010; Treanor, 2020; Ward et al., 2012).<sup>23</sup> For example, women interviewed by Sommerlad et al. (2010) reported that their career progression towards a senior position had been hindered as a result of not working extended hours when their children were young.

##### *Self-employed nature of the Bar*

The self-employed nature of the Bar was recognised as a factor that can negatively affect retention of female barristers within the profession. Blackwell (2012) noted that lack of income security and few maternity benefits afforded to self-employed barristers can deter women from continuing their career at the Bar. Similarly, stakeholder evidence highlighted that the self-employed nature of the Bar, as well as changeable working patterns and irregular income, can make practising as a barrister challenging for individuals with caregiving responsibilities.

##### *The 'old boys' club' culture*

Numerous references were made in the literature to the prevailing perception that the law is an elitist profession dominated by privileged white men (e.g. Kotecha et al., 2017; McKee et al., 2018; Sommerlad, 2012; Vaughan, 2015). Sommerlad (2015) observed that while there is an increasing focus on addressing this view and increasing the diversity of the legal profession, there continues to be evidence of its 'clubbable nature'. Describing the findings from a series of qualitative studies, Sommerlad (2015) reported that casual sexism, the

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<sup>23</sup> Career progression opportunities may include working on complex and/or lucrative cases that would provide the experience and expertise required for more senior positions (e.g. Kumra, 2015).

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telling of 'dirty jokes' and nepotism amongst male lawyers can create an intimidating and exclusionary environment for women to work in.

Similarly, Ashdown (2015) and Iyer (2013) observed that the culture of male-centred social and cultural activities outside of office hours, which disproportionately disadvantages women with childcare responsibilities, presents a barrier to promotion for female lawyers. Qualitative research carried out by Sommerlad et al. (2010) with individuals who were current, former or aspirational solicitors, barristers, paralegals, and legal executives, found that participants reported networking events often centre on traditionally 'masculine' interests or take place at locations that have traditionally excluded women, such as golf clubs or private 'gentlemen's clubs'. However, respondents also reported that there are increasingly more social and networking events that cater to diverse interests and are more inclusive of women.

Sommerlad (2015) noted that the Association of Women Barristers describes patronage as critical for promotion to the senior judiciary; therefore, patronage holds significance for the career progression of lawyers. Within the literature, there was the view that members of the 'old boys' club' and the patronage that comes with membership, are favoured for career progression, whether this is due to overt nepotism, or the indirect result of the opportunities to build informal networks and mentoring relationships that being a member of the 'club' affords (see Sommerlad, 2015).

### *Professional exclusion*

While there is evidence that the legal professions are becoming increasingly diverse in terms of visible diversity characteristics, this diversity appears to be concentrated in less senior positions and within less 'prestigious' and less financially lucrative areas of practice (Ashdown, 2015; Barmes & Malleson, 2011; Bindman & Monaghan, 2014; Sommerlad, 2015). For example, 2020 data published by the MoJ reports that women comprise 17% of Queen's Counsel (barristers) and 32% of partners (solicitors); however, within the profession of Chartered Legal Executives, women comprise 57% of partners.<sup>24</sup>

Sommerlad et al. (2010) found that there continues to be the view within the legal professions that women and men have particular roles and areas of law that they are more 'naturally' suited to (see also Sommerlad, 2012). Treanor (2020, p. 211) referred to this as the 'motherhood penalty' – namely, the presumption that women's interests lie in the 'domestic realm' – irrespective of whether a woman is, can, or wants to become a mother. Sommerlad (2012) and Treanor (2020) observed in their reviews of the literature that this manifests as professional exclusion, whereby women are guided towards traditionally 'female' areas of the law, such as family or employment law (see also Ashdown, 2015). While these areas of law are considered to be more 'family friendly' for those with childcare responsibilities, they are less prestigious and less well-paid than other areas of law (such as civil, commercial, or international law; Milburn, 2012; The Law Society, 2019b). Moreover, because the traditionally 'female' areas of law are considered less prestigious than traditionally 'male' areas, there is the view that the professional exclusion experienced by women presents a barrier to progression to the most senior legal positions, including judicial appointment (Sommerlad, 2012; The Law Society, 2019b; Treanor, 2020).

### *Gender norms and expectations*

Ideals of male and female gender roles can present a barrier to career progression for female lawyers (Joly, 2018; Sommerlad, 2012). The legal professions require drive, ambition, and the ability to self-promote; however,

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<sup>24</sup> See: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>. Note that since the time of writing, the statistics on diversity in the legal professions and the judiciary have been updated and can be accessed here: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2022-statistics>



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Sommerlad (2012) cited evidence that while self-promotion and ambition can be viewed as desirable characteristics in men, the same qualities in women are regarded as ‘unattractive’ and can hinder career progression (see also The Law Society, 2019b). Similarly, Kumra (2015) observed that traits considered more ‘feminine’ such as empathy or teamworking are not rewarded to the same extent as independence or competitiveness, which are considered more ‘masculine’ traits.

Sommerlad et al. (2010) found that there is a gender difference in how marriage is perceived within the legal profession. Female participants interviewed about their experiences reported that they felt being married was seen as a lack of commitment to the profession, which in turn can present a barrier to career progression. Resistance towards part-time and flexible working patterns within the legal professions means that this can be interpreted as an indicator of declining commitment to a firm, ultimately disadvantaging the part-time employee, such as the female who takes maternity leave or wants to change her working pattern. Conversely, participants reported that being a married male lawyer is taken as a sign of commitment and is a positive factor when being considered for promotion. However, from the findings reported by Sommerlad et al. (2010), commitment within this context appears to refer to commitment to the traditional social order (viewing males as the primary earners and source of support for the family) and not specifically commitment to the profession, where the former is viewed favourably within the legal sector. The different manner in which commitment to the profession may be inferred has real consequences on the efficacy of flexible working initiatives and well-being of part-time employees, which is further addressed in section 4.1.2.

## **2.2.2 Socio-economic background, education, and ethnicity**

Barriers to retention and progression associated with the intersection between socio-economic background, education, and ethnicity were identified in the literature. The identified barriers centre on professional exclusion and the culture of privilege within the legal profession.

### *Professional exclusion*

As noted in the previous section, there is evidence that the legal professions are becoming more diverse in terms of visible diversity characteristics (specifically gender and ethnicity; Ashdown, 2015; Barmes & Malleson, 2011; Bindman & Monaghan, 2014; Sommerlad, 2015). However, it has also been observed that while women and black, Asian and minority ethnic individuals are able to enter the legal profession, career progression is not equal to white men from privileged backgrounds (Bindman & Monaghan, 2014; McKee et al., 2018; Ward et al., 2012). The lack of socio-economic diversity at the more senior levels of the legal professions is evidenced by the over-representation of privately educated partners at top law firms (McKee et al., 2018; Mountford-Zimdars & Flood, 2016; Vaughan, 2015) and the over-representation of privately and Oxbridge educated judges (McKee et al., 2018; Mountford-Zimdars & Flood, 2016). Similarly, a report by the Solicitors Regulation Authority (2017) noted that while the previous 10 years had seen increases in the number of black, Asian and minority ethnic solicitors entering the profession, black, Asian and minority ethnic individuals continue to be under-represented at partner level. Likewise, data published by the MoJ (2020) shows that the representation of black, Asian and minority ethnic lawyers decreases with increasing seniority, with black, Asian and minority ethnic lawyers making up 9% of Queen’s Counsel, 15% of partners (solicitors), and 4% of partners (Chartered Legal Executives).

In the previous section, professional exclusion was identified as a barrier for women’s progression within the legal profession. Similarly, the literature suggests that black, Asian and minority ethnic individuals experience professional exclusion, with black, Asian and minority ethnic lawyers more likely to work in less prestigious and financially beneficial areas of legal practice, such as criminal or immigration law (Barmes & Malleson, 2011; Solicitors Regulation Authority, 2017). Similarly, a study by Sommerlad et al. (2010) found that some black, Asian and minority ethnic individuals had been discouraged from continuing to pursue a career as a lawyer by

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more senior professionals, with a career as a legal secretary suggested as an alternative. The authors also noted that some black, Asian and minority ethnic study participants described being allocated lower value work compared to their white peers (Sommerlad et al., 2010).

Professional exclusion is also experienced by lawyers with a less prestigious educational background. In an analysis of pupillage data, Mountford-Zimdars and Flood (2016) found that Oxbridge educated graduates were under-represented within the less well-paid fields of family and criminal law. Having an Oxbridge education corresponded with an individual being more likely to work on cases with a high financial and reputational value than their peers who had attended a newer university.

### *The culture of privilege and the 'old boys' club'*

Sommerlad (2012) observed that there is still the expectation that 'top' legal professionals will look and speak a certain way and engage in particular hobbies and interests that are associated with a more privileged socio-economic background (such as hunting or horse-riding). These expectations can present a barrier for individuals who do not conform to the cultural stereotype of a senior legal professional (Sommerlad, 2012; Vaughan, 2015). Moreover, socialising, building professional networks, and being part of the 'old boys' club' is considered an integral facilitator of career progression (McKee et al., 2018; Sommerlad et al., 2010; Sullivan, 2010), which can present a barrier to progression for men and women from less privileged backgrounds (Sommerlad et al., 2010).

The notion of homophily<sup>25</sup> may provide an explanation for how and why the (belief of the) elitist culture of the legal professions can present a barrier to career progression for individuals from less privileged backgrounds. Similar backgrounds and experiences can provide the foundation for personal bonds and the development of formal and informal professional networks, which are integral to career progression (e.g. Kumra, 2015; Sommerlad, 2012). Mentors (both formal and informal) and personal relationships are vital for providing advice and introductions, as well as attesting to a person's ability and potential (Sommerlad, 2015). Therefore, if privileged white Oxbridge educated men are over-represented at the senior levels of the legal professions, the tendency for people to develop relationships with similar individuals may (subconsciously) benefit junior lawyers from similar backgrounds. In turn, those who do not fit the expected mould of a top lawyer are less likely to have the same opportunities to access the level of mentorship required for progression (Kumra, 2015; Sommerlad et al., 2010).

### **2.2.3. Disability**

There was very little evidence on the disability-related barriers to retention and progression of individuals in the legal profession. However, as noted in section 2.1.2, the research by Foster and Hirst (2020) provided key insights on the experiences of disabled people in the legal profession. Within this section, evidence from Foster and Hirst's research is presented and supplemented by additional evidence from the literature and stakeholder consultation.

### *Professional exclusion*

Foster and Hirst's research (2020) provided examples of the professional exclusion that some disabled people have faced in the legal professions:

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<sup>25</sup> The tendency for people to associate and interact with people who share similar characteristics to themselves such as age, gender, education level, socio-economic background, which can result in homogenous social networks (McPherson, Smith-Lovin, & Cook, 2001).

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- Some lawyers reported that after disclosing a disability they had been assigned work or placed in roles that they were over-qualified to do, which presented a barrier for career progression (see also The Law Society, 2019b).
  - Disabled legal professionals were under-represented in large elite firms in the City of London, with the majority of roles being in less prestigious small or medium-sized firms. Again, these positions are typically less well-paid and offer fewer career progression opportunities.
  - A report by JUSTICE (2020) found that disabled lawyers often feel that their opinions are not valued.
  - Stakeholder evidence reported that disabled lawyers can experience misplaced paternalism and/or professional exclusion.

### *Exploitation of disabilities*

Participants in Foster and Hirst's (2020) research gave examples of how employers had exploited their disability:

- Where disabled lawyers worked in the fields of personal injury or medical negligence, participants described how their employers utilised their disability as a 'unique selling point' in order to attract clients.
- Participants described how their employers used their disability to market the firm as diverse and inclusive.

### *Lack of flexible working*

Foster and Hirst (2020) noted that flexible or part-time hours might be beneficial for individuals with a disability associated with pain or fatigue. However, the culture of long hours and a lack of flexible working opportunities were identified as factors affecting retention of disabled people within the legal professions, as well as presenting a barrier to career progression (Foster & Hirst, 2020).<sup>26</sup> This is not to say that law firms do not offer flexible or part-time working; rather, it is the perception that this corresponds to a lack of commitment that is the barrier to career progression (The Law society, 2019b). Furthermore, the working culture of the legal professions may exacerbate existing illnesses or disabilities or cause new illnesses to develop (i.e. physical and/or mental illnesses precipitated by severe stress). To this point, Foster and Hirst (2020) noted that some individuals reported having left the legal sector as a result of the working culture.

### *Accessibility and workplace adjustments*

As described in section 2.1.2., concerns regarding accessibility were reported by individuals at the early stages of their legal careers. Likewise, stakeholder evidence and the research by Foster and Hirst (2020) reported that access concerns in relation to the office environment, as well as external working locations, were also present for more established legal professionals. Accessibility challenges may result in some individuals choosing to leave the profession.

Participants in Foster and Hirst's (2020) research also reported feeling that in comparison to other diversity characteristics, disability is not a priority for human resources departments. Evidence from stakeholders reported that some firms do not provide adequate adjustments to the working environment. This may be the result of a

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<sup>26</sup> A point also reported within the stakeholder evidence from the consultation exercise.

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lack of knowledge of the range of physical, sensory, or learning disabilities combined with a lack of experience responding to the needs of disabled staff.

### *Professional culture*

The stakeholder consultation highlighted how the importance placed on socialising and professional networking to progress within the legal professions can present a challenge for some disabled people. Similarly, Foster and Hirst (2020) found that individuals with sensory disabilities such as hearing loss reported experiencing 'sensory overload' at some networking events; individuals on the autism spectrum found the interpersonal skills required at networking events to be challenging; while others found the physical inaccessibility of some event venues to be a hinderance. If individuals are not able to fully participate in these events due to factors related to their disability, they will not be afforded the same opportunities to develop the personal and mentoring relationships that are so important for career progression.

### *Ill-treatment, bullying, and discrimination*

The survey data collected by Foster and Hirst (2020) found that 80% (n = 115) of solicitors or paralegals and 71% (n = 15) of barristers with a disability who had experienced bullying or ill-treatment at work believed the ill-treatment to be related to their disability. Ill-treatment and bullying most often involved the use of condescending language and exclusionary behaviour. However, lack of understanding about a disability or health condition was the most prevalent source of ill-treatment. The lack of understanding was reported to have contributed to individuals choosing not to disclose a disability and/or not having access to adjustments to their working environments, with some individuals choosing to leave the legal sector as a result of ill-treatment.

## **2.3 Barriers to judicial appointment**

The literature review provided evidence that barriers to achieving diversity within the judiciary are the product of the barriers present at each level of the legal career ladder (e.g. Milburn, 2012). Within this section, evidence from the literature illustrating how the barriers identified in the previous sections of this chapter are thought to hinder the diversity of the judicial candidate pool is presented. The section concludes by illustrating how the barriers present at each level of the legal professions create the perception of a biased selection process at the level of judicial appointment.

### **2.3.1 Judicial candidate pool**

#### *Trickle-up effects of diversity barriers in the legal profession*

The literature indicates that some of the barriers faced by individuals seeking to gain access to and progress through the legal professions can narrow the diversity of the pool of candidates seeking judicial appointment (e.g. Bindman & Monaghan, 2014; Milburn, 2012). The review of the evidence shows that some of the barriers identified in sections 2.1 and 2.2 are also present within the judiciary and can deter eligible candidates from applying for judicial appointment.

#### *Working practices*

The long hours and inflexible working practices common within the legal professions have been noted to present a barrier to career progression opportunities – particularly for individuals with childcare responsibilities (typically women) and individuals with disabilities (see sections 2.2.1 and 2.2.3). Limiting the career progression opportunities of those who work part-time or flexible hours means it is challenging for these individuals to acquire the experience and level of seniority necessary to be a suitable candidate for judicial appointment, and therefore limits the diversity of the candidate selection pool (Barnes & Malleon, 2011; Treanor, 2020).

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The working practices of the judiciary have also been noted as a factor that can deter some individuals from applying for judicial appointment (Ministry of Justice, 2012a; Turenne & Bell, 2018; Treanor, 2020). For example, following a review of relevant literature, Iyer (2013) observed that the working practices of the judiciary are often inflexible, and that attempts to increase flexibility (such as the use of conference calls rather than in-person meetings) are often resisted in favour of tradition. Morison, Dickson, and Godden (2020) conducted in-depth interviews and focus groups with barristers and solicitors who were either retired from or currently serving as County Court and High Court judges in Northern Ireland. They found that the comparative increase in workload and lack of flexible working (in combination with a reduction in salary and pension<sup>27</sup>) makes the move from solicitor or barrister to High Court judge an unappealing prospect for both men and women, and for individuals with mental health conditions or other disabilities. Similarly, the findings of the 2013 JAC survey found that the isolated nature of the role, reduction in earnings, and the culture of the judicial establishment were key barriers to applying for judicial appointment (Accent, 2013).<sup>28</sup>

The traditional requirement that High Court judges ‘go out on circuit’ has also been identified as a deterrent to applying for a judicial role (Bindman & Monaghan, 2014). The circuit system requires judges to spend extended periods of time away from home working in regional courts. Bindman and Monaghan (2014, p. 44) noted that this can be an “extremely unattractive” prospect for individuals who have childcare responsibilities or other personal circumstances not conducive to extended periods away from home. Likewise, a report by Turenne and Bell (2018) for the Senior Salaries Review Body found the inflexibility of judicial work combined with the requirement of going ‘on circuit’ can deter women from applying for a High Court appointment (see also JUSTICE, 2020). Findings from the 2013 JAC survey also found that disabled respondents viewed the travel involved in a judicial role to be a deterrent to applying (Accent, 2013).

The evidence from the literature was corroborated by stakeholder responses to the consultation exercise, which indicated that the ‘unattractive’ working conditions of the judiciary can deter some individuals from applying.

#### *Gender, ethnicity, and privilege*

Women continue to be under-represented in the judiciary, with the under-representation being more pronounced at the more senior levels of the judiciary (House of Lords, 2017). JUSTICE (2020) reported that while increasing numbers of women have been appointed to judicial positions in recent years, the proportion of women applying to High Court judicial positions does not correspond with the proportion of women who are eligible to apply. A report by the House of Lords Select Committee on the Constitution suggested that the under-representation of women may also deter women from applying for a judicial appointment: thinking that the judiciary is dominated by men could create the impression that women “are not welcome” (House of Lords, 2017, p.37). To this point, Iyer (2013) noted that the judiciary is perceived by some women to be a hostile, male-dominated environment. Treanor (2020) has also suggested that the prevalence of men within the judiciary could deter some women from applying for a judicial appointment because they believe a male candidate would be preferred and the working environment would be hostile.

Similarly, believing that judges are predominantly individuals from privileged socio-economic backgrounds, who are privately educated Oxbridge graduates may deter those from a less privileged background from applying for judicial appointment (Bindman & Monaghan, 2014; JUSTICE, 2020).

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<sup>27</sup> See also Blackham (2017a, 2017b) regarding judicial retirement ages and pension provision.

<sup>28</sup> Note that the survey was of solicitors, barristers and Chartered Legal Executives eligible to apply for judicial office (i.e. they had been qualified for at least five years).

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As noted in section 2.2.2., black, Asian and minority ethnic legal professionals are under-represented within the more senior positions of the professions. In turn, the pool of eligible candidates for judicial appointment from ethnic minority backgrounds becomes very small (JUSTICE, 2020). The 2013 JAC survey (Accent, 2013) also found that some black, Asian and minority ethnic individuals are deterred from applying for a judicial role due to concerns that they would be unsuccessful because of their ethnicity. Moreover, concern that the judiciary would not be a welcoming environment for black, Asian and minority ethnic judges was also found to be a factor discouraging application (Accent, 2013). Reports by Bindman and Monaghan (2014) and JUSTICE (2020) found that black, Asian and minority ethnic candidates for judicial appointment were disproportionately failing the selection exercises; both reports note that the reason for this is unknown.

In addition to the judiciary being comprised of predominantly Oxbridge educated males, it is also overwhelmingly white (JUSTICE, 2020; Milburn, 2012). Therefore, the judiciary likely appears to be an unwelcoming environment to those who do not fit the 'profile' of a privileged white man (Bindman & Monaghan, 2014). Bindman and Monaghan (2014, p. 48) have argued that this view of the judiciary is unlikely to change "until there is a radical shift in the profile of the judiciary, by the introduction of more women and minorities."

### *Sexuality and gender identity*

Moran (2013) conducted a survey of LGBTQ+ legal professionals to investigate barriers to application for judicial appointment. The survey found that the majority of respondents would be more likely to apply for judicial appointment if there were more openly LGBTQ+ members of the judiciary. This does not mean that members of the judiciary should have to openly disclose their sexual orientation or gender identity, but rather there should be a move towards challenging the 'heterosexual status quo' that may deter some LGBTQ+ individuals from applying for judicial office (Moran, 2013).

Findings of the 2013 JAC survey also found that LGBTQ+ individuals reported that they were reluctant to apply for a judicial position because they believed their sexual orientation or gender identity would negatively affect their chances of being selected (Accent, 2013).

Moran (2013) found that the intersection of ethnicity and sexual orientation can compound the view that the judicial culture would be unwelcoming, which serves to deter LGBTQ+ black, Asian and minority ethnic lawyers from applying for judicial appointment. Similarly, Moran (2013) reported an intersection between gender and sexual orientation, whereby lesbian respondents were less likely to apply for judicial appointment than gay men. Therefore, barriers associated with gender may further deter LGBTQ+ women from applying.

### *Professional hierarchy*

Stakeholder evidence reported that the Bar constitutes the "biggest pool of applicants and appointees to judicial positions", with over two thirds of court judicial posts being held by former barristers.<sup>29</sup> The proportion of former barristers was observed by stakeholders to be even greater within the senior judiciary. Furthermore, it was noted that Chartered Legal Executives are only eligible to apply for judicial roles up to the level of District Judge.

In line with these observations, there is the perception of a professional hierarchy within the legal sector, whereby barristers are considered to represent the most elite of legal professionals and are best suited to judicial appointment (Morison et al., 2020). Consequently, while Chartered Legal Executives, solicitors, and

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<sup>29</sup> By contrast, approximately 37% of tribunal court judges have a professional background as a barrister (see Judiciary of England and Wales, 2019b). However, see updated statistics for 2022 here: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2022-statistics>

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barristers can all be eligible to apply for judicial office, believing that there is a preference to appoint senior barristers can deter solicitors and Chartered Legal Executives from applying (Accent, 2013; Barmes & Malleson, 2011; Zimdars, 2011). Therefore, it has been suggested that many solicitors likely 'self-select out' of the judicial appointment process (Treanor, 2020).

The perceived hierarchy within the legal sector is reflected in the findings of the 2013 JAC survey, which found that solicitors are less confident in their skills and experience and are less likely to apply for judicial office than barristers (Accent, 2013). However, Chartered Legal Executives are less likely than solicitors to consider applying for a judicial role and are likely to consider their legal education to be a barrier to successful appointment (see section 2.1.1). Moreover, stakeholder evidence highlighted that Chartered Legal Executives represent the most diverse branch of the legal profession; therefore, the restriction placed on the judicial roles available for Chartered Legal Executives contributes to a lack of diversity within the judiciary.

### *Pay and benefits*

In a report for the Senior Salaries Review Body, Turenne and Bell (2018) noted that individuals will often earn more from practising law than they will from being on the Bench. Similarly, judicial pensions are not as substantial as they were previously and are now subject to higher levels of taxation. Therefore, applying for a judicial post can be unappealing due to the decrease in remuneration.

### **2.3.2 Selection and appointment process**

Evidence from the literature and stakeholder consultation indicates that there is a perception of prejudice and discrimination within the judicial selection and appointment processes. Findings from the 2013 JAC survey found that 46% of respondents believed there is prejudice in the judicial selection process (Accent, 2013). The evidence base indicates that there is the perception of a 'trickle-up effect' whereby the barriers to diversity at entry, retention, and progression in the legal professions manifest as prejudice at the level of judicial selection. In particular, legal professionals view individuals' ethnicity, gender, sexual orientation, educational background, and professional background to be areas of bias affecting appointment decisions. Within this section, rather than duplicate the content of the previous sections of the chapter, the ways that bias is perceived to be present at the level of judicial appointment are summarised.

### *Ethnicity*

- The judiciary is predominantly white (Milburn, 2012), and some black, Asian and minority ethnic lawyers believe that being an ethnic minority will present a disadvantage in the selection process (Accent, 2013; Ministry of Justice, 2012a).
- Moran (2013) found that 85% of black, Asian and minority ethnic LGBTQ+ survey respondents thought that prejudice significantly influences appointment decisions.

### *Gender*

- Women are under-represented in the judiciary (JUSTICE, 2020; Milburn; 2012; Treanor, 2020).
- As part of an equality impact assessment focused on improving the judicial selection and appointment process, the MoJ included a brief review of research on judicial diversity (Ministry of Justice, 2012a). The review identified evidence that there are perceptions of bias in the judicial appointment process amongst female lawyers. The report cited research showing that women view being female to be disadvantageous in the selection process.

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- Moran (2013) found that 70% (n = 131) of the participants in a survey of 188 LGBTQ+ legal professionals believed there to be prejudice in the judicial selection process and that 100% of women respondents considered that prejudice significantly influences appointment decisions.

### *Sexual orientation*

The 2013 JAC survey of legal professionals carried out by Accent found that 19% of LGBTQ+ respondents believed that being openly LGBTQ+ would have a determinantal effect on their chance of success in the judicial appointment process.

### *Education*

- Members of the judiciary have predominantly attended private schools and elite universities - particularly Oxbridge (Blackwell, 2012; McKee et al., 2018; Milburn, 2012; Mountford-Zimdars & Flood, 2016; Vaughan, 2015).
- A review of research on judicial diversity by the MoJ (2012a) noted evidence that applicants who have been privately educated and have graduated from Oxbridge (and other top institutions) have greater success in the judicial appointments process than those with less 'elite' educational backgrounds.
- Data reported by JUSTICE (2020) showed that the number of judicial candidates from less privileged socio-economic backgrounds who are successfully appointed is less than would be expected based on the proportion of candidates from lower socio-economic backgrounds who apply.<sup>30</sup> This suggests that there is "something in the application process which is prejudicing those from lower socio-economic backgrounds" (JUSTICE, 2020, p. 52).

### *Professional background*

As noted in section 2.3.1, barristers, solicitors, and Chartered Legal Executives can be appointed as a judge. However, barristers are believed to be favoured over solicitors and Chartered Legal Executives in the selection process (Accent, 2013; JUSTICE 2020; Zimdars, 2011).

## **2.4 The principle of merit**

Under the Constitutional Reform Act 2005 candidates for judicial appointment must be selected 'solely on merit' (Bindman & Monaghan, 2014; Delaney, 2016). Prior to the JAC taking responsibility for judicial appointments in 2006, appointments were made by the Lord Chancellor, who was advised by senior judges; however, there were concerns that this system did not encourage diversity. In response to these concerns, the independent JAC was formed, which has a duty to encourage diversity in the pool of applicants for judicial appointment who are then appointed on merit.<sup>31</sup> Further, "[w]here [two] or more candidates are assessed as being of equal merit, the JAC can give priority to a candidate (or candidates) for the purpose of increasing judicial diversity using statutory equal merit provisions."<sup>32</sup>

In the first instance, the merit principle appears to provide a way to 'even the playing field' and increase diversity within the judiciary (e.g. McKee et al., 2018). Similarly, the merit principle should provide a means to overcome

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<sup>30</sup> The data within the JUSTICE (2020) report is a combination of official statistics and reports, as well as publicly available information (e.g. official directories).

<sup>31</sup> <https://www.judiciary.uk/about-the-judiciary/our-justice-system/jud-acc-ind/jud-appts/>

<sup>32</sup> <https://www.judicialappointments.gov.uk/equal-merit>



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barriers to diversity at entry, retention, and progression within the legal professions. However, a number of challenges to the efficacy of the merit principle to improve diversity within the judiciary and the legal profession more broadly were identified.

The literature suggests that the concept of 'merit' is poorly defined and that there is an absence of suitable guidance on how to assess merit (Bindman & Monaghan, 2014; Moran, 2013; Paterson & Paterson, 2012; Sommerlad, 2015). There is also debate over whether diversity should be incorporated into the concept of merit (Bindman & Monaghan, 2014; Delaney, 2016). As a result, it has been argued that merit becomes a subjective assessment of a person's suitability for appointment (Gyorfi, 2017; Paterson & Paterson, 2012). Without clear guidance, those responsible for appointing individuals to positions at all levels of the legal professions determine the qualities that reflect merit. Moreover, Iyer (2013, p. 102) suggested that merit "can offer a convenient mask through which stereotypes and heuristic biases operate." For example, gendered stereotypes about masculine and feminine personality traits may contribute to more 'merit' being ascribed to a man than a woman.

Subjective interpretations of what constitutes merit may have implications for the diversity of the legal professions, from entry-level positions through to the most senior judicial appointments. For example, if an Oxbridge degree is considered to demonstrate more merit than a degree from a newer university, Oxbridge graduates will continue to be over-represented in the legal professions. Moreover, because individuals from less privileged backgrounds and black, Asian and minority ethnic individuals are more likely to attend 'newer' universities (Sommerlad, 2015; Vaughan, 2015), ascribing more merit to Oxbridge graduates also has implications for the racial and socio-economic composition of the legal professions and judiciary.

McKee et al. (2018) also note that 'polish' is a quality associated with demonstrating merit within the legal professions. Polish can be demonstrated by vocabulary, the way in which a person speaks, confidence, and physical appearance (McKee et al., 2018). However, using polish as a proxy for merit benefits those from more privileged backgrounds who are more likely to have had the opportunity to develop the qualities associated with polish that are valued in the legal professions (McKee et al., 2018; Sommerlad, 2015; Ward et al., 2012). Therefore, the merit principle is considered by some to perpetuate the male, white, privileged composition of the legal professions and judiciary, rather than a mechanism by which barriers to diversity can be eliminated (McKee et al., 2018; Sommerlad, 2015). It follows that the challenges associated with the assessment of merit may combine with the barriers seen at each level of the legal professions to limit the diversity of eligible candidates for judicial appointment, and ultimately limit the diversity of the judiciary.<sup>33</sup>

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<sup>33</sup> Bindman and Monaghan (2014) noted that the JAC have tried to define merit based on six 'qualities' that should be considered during the judicial selection process. However, the issue remains that interpretation of whether a candidate shows merit according to the six qualities will be influenced by personal notions of merit.

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# 3. Initiatives promoting diversity

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## Chapter summary

- Initiatives focused on reducing barriers to diversity for those wanting to enter the legal professions concentrate on **overcoming barriers** related to **social mobility**, and include **insight schemes** for school and university students, **work experience** placements, and **targeted outreach events**.
- Initiatives targeting barriers to retention and progression of under-represented groups within the legal professions **focus on making employees feel recognised, represented, and supported** in their workplace.
- Initiatives undertaken by JDF partners focus primarily on **encouraging under-represented individuals to apply** for judicial appointment by providing potential applicants with greater **insight into the role of a judge and how the judicial application process works**, as well as **preparing candidates with the skills and competencies** required for success (i.e. judicial appointment).
- At the application and selection stages of judicial appointment, activities centre on **eliminating discrimination** and ensuring **fair and transparent processes**. For example, **name-blind sifting** of applications; **'equality proofing' of selection materials** to ensure appropriate content and tone; **diversity checkpoints** to monitor the progression of under-represented groups throughout the selection process; and use of the **equal merit principle** at both shortlisting and final decision-making.
- Schemes to retain under-represented individuals once appointed to the judiciary include **salaried part-time working** and the introduction of options for **flexible working**.

This chapter outlines the initiatives undertaken to promote diversity by the JDF and its partners, as well as by other organisations and firms in the wider legal professions. In addition to the evidence review, JDF partners were asked to provide information via the evidence call. The authors acknowledge that there are numerous initiatives at every level of the professions; however, due to the methodological limitations of an REA, this report does not provide a comprehensive picture of all diversity related programmes and activities (supporting access, retention and progression) currently underway in the legal sector.

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Initiatives implemented in the wider legal professions focus on overcoming barriers to diversity at points of access, retention, and progression within the professions. Examples include insight schemes for school and university students, work experience placements, targeted outreach events and flexible working opportunities. While initiatives undertaken by JDF partners include activities to encourage diversity within the legal professions, efforts primarily focus on encouraging under-represented individuals to apply for judicial appointment by providing potential applicants with greater insight into the role of a judge and how the judicial application process works, as well as preparing candidates with the skills and competencies required for success. At the application and selection stages of judicial appointment, activities centre on eliminating discrimination and ensuring the processes are fair and transparent. The evidence base provides less information about schemes to retain diverse individuals once they have been appointed to the judiciary.

Evidence about the effectiveness of diversity initiatives is presented in chapter 4. However, this evidence is limited and few of the initiatives presented in this chapter have corresponding efficacy evidence presented in chapter 4.

### 3.1 Initiatives within the wider legal professions

This section outlines the initiatives undertaken by individual law firms, barristers' chambers and non-profit organisations to promote diversity. Sub-sections are organised by initiatives to improve access to the legal professions, to retain legal professionals, and to facilitate career progression.

#### 3.1.1 Access to the legal professions

##### *Socio-economic background, education, and ethnicity*

As discussed in chapter 2, the evidence base indicates that socio-economic background can intersect with educational background and ethnicity to exacerbate the barriers faced by those wanting to enter a legal profession. Initiatives to overcome barriers related to social mobility centre on raising awareness of law as a potential career path at school and university level, encouraging applications to the professions through careers events, and offering dedicated work experience placements or funding to students from less privileged backgrounds.

##### *Initiatives at school level*

Diversity initiatives have been carried out by various organisations targeting students attending state schools from less advantaged socio-economic backgrounds. The aim of these schemes is to provide young people with insight into a career in law and raise their aspirations to consider becoming a solicitor or a barrister in the future.

- **Inner Temple Schools Project.**<sup>34</sup> This project was launched by the Inner Temple<sup>35</sup> in 2008 and is delivered in partnership with the National Education Trust, Pathways to Law and the Social Mobility Foundation. It provides state school students from disadvantaged backgrounds with information on and insight into the Bar as a career path. The programme monitors students' progress through to higher education. The Inner Temple Schools Project was listed as a case study in the Milburn Report on Fair Access to Professional Careers (Milburn, 2012), as well as an example of best practice in the final report of the Advisory Panel on Judicial Diversity (Dursi, 2012).

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<sup>34</sup> More information on the Inner Temple Schools Project is available here: <https://www.innertemple.org.uk/becoming-a-barrister/how-to-get-involved/schools-project/>

<sup>35</sup> The Inns of Court in London are the professional associations for barristers in England and Wales. There are four Inns of Court – Gray's Inn, Lincoln's Inn, Inner Temple and Middle Temple. All barristers must belong to one of the Inns of Court. More information on the Inns of Court is available here: <https://www.coic.org.uk/>

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- **The Reach for Excellence (RfE) Programme** at the University of Leeds provides support to local 16-year olds from disadvantaged backgrounds to enrol at more ‘prestigious’ universities. Over two years, students are provided with individual mentoring sessions, a place at summer school, and visits to different universities. This guidance and support is considered to help young people from disadvantaged communities overcome the ‘psychological leap’ of imagining themselves becoming a lawyer, despite not previously considering this career path as an option (Sullivan, 2010).
  - **The Sutton Trust’s Pathways to Law programme**<sup>36</sup> runs for two academic years and provides Year 12 and Year 13 students from less advantaged socio-economic backgrounds the opportunity to explore what entering the legal professions might look like. The programme runs information workshops led by partner universities and presents opportunities for participants to apply for work experience placements, attend university events, work with an undergraduate mentor, attend summer school, and access the programme’s alumni network. Students are eligible for the programme if they have attended a state-funded, non-fee-paying school or college, and live a commuting distance to a partner university that supports the initiative. Additional eligibility criteria include the applicant being the first generation in their family to attend university, having received free school meals whilst at secondary school, and having attended a school with a lower than average progression to higher education (Braithwaite, 2010; Sommerlad, 2010).
  - **The Social Mobility Foundation** aims to decrease the socio-economic gap in higher education. The Foundation provides a range of support to less privileged A-Level students to enable them to realise their potential and progress into high-achieving universities and professions. Students are provided with an e-mentor in their desired profession, commonly law, and are assisted in to securing relevant internships (Sullivan, 2010).

#### *Recruitment initiatives for entry-level positions*

To encourage entry-level applications to the legal professions from students from less privileged socio-economic backgrounds, initiatives focus on raising awareness of law and its accessibility as a career choice (Braithwaite, 2010; Dursi, 2012).

- Dursi (2012) noted that the Inns of Court run several **access events** every year for university students across the UK to meet barristers, law tutors, and university career advisers who provide them with information about the legal profession. Careers information material is also shared at these events.
- Large law firms are often present at **university careers fairs** to raise the profile of their firm, particularly amongst potential graduate applicants from non-traditional backgrounds. For example, firms' graduate recruiters were reported to be travelling to many more universities to attend recruitment events than they had done in the past (Braithwaite, 2010).

However, Braithwaite (2010) also noted that the selection of universities by law firms mostly excludes new universities, suggesting that focus remains on targeting the most prestigious universities.

To further address concerns around access to the profession, work experience placements encouraging social mobility are offered by barrister’s chambers, law firms and non-profit organisations (Dursi, 2012; Sullivan, 2010).

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<sup>36</sup> For more information, see: <https://www.suttontrust.com/our-programmes/pathways-to-law/>

- **The Pegasus Access and Support Scheme (PASS)**<sup>37</sup> launched in 2012 and aims to address potential barriers to accessing mini-pupillages, including concerns around favouritism of Oxbridge applicants and the need to have existing networks in law to successfully gain work experience. PASS matches high-achieving students from less advantaged backgrounds with Partner Chambers to undertake a mini-pupillage and aims to support participants' subsequent progression into the profession (Dursi, 2012).
- A similar initiative run by **Sponsors for Educational Opportunity London (SEO)**<sup>38</sup> helps find summer internships at corporate law firms in London for outstanding black, Asian and minority ethnic undergraduates. The scheme provides participants with mentors from its programme alumni and networking opportunities with senior partners at several law firms. Participants also receive training in both technical and soft skills, such as interviewing techniques. The goal of the programme is to help participants to secure a training contract with a sponsoring firm (Sullivan, 2012).
- The **Legal Launch Pad (LLP)** was initiated by the Black Lawyers Division (BLD)<sup>39</sup> in 2008, targeting law and non-law black, Asian and minority ethnic students in their second year at university. The rationale for the programme is that black, Asian and minority ethnic students are more likely to come from a disadvantaged background and less likely to be informed about the different routes into the profession and about what a career in law involves. The scheme helps prepare participants by increasing their likelihood of success, providing information and raising aspirations via developmental training workshops, coaching, mentoring and practical experience of working in a legal environment. This initiative is sponsored by the law firm DLA Piper (Sommerlad et al., 2010).

Alongside work experience opportunities, **scholarship schemes** are offered to encourage social mobility (Dursi, 2012). For example, the Inns of Court provide nearly £5 million in scholarships to cover the Graduate Diploma in Law (GDL) and/or the BPTC and pupillage so that financial need does not prevent capable students from becoming barristers. The Inner Temple attempts to interview all applicants and take need into account when determining the level of funding allocated for most of its awards.

### *Diversity at entry level*

The JDF action plan published in September 2020 (Judicial Diversity Forum, 2020)<sup>40</sup> reported that from 2021, the SRA will introduce the Solicitors Qualifying Examination (SQE). The SQE will be a new assessment designed to ensure that all aspiring solicitors meet the same standard when entering the profession. The SQE is part of the SRA's policy of creating more flexible routes to qualifying as a solicitor with the aim of reducing barriers to entry. The JDF action plan also noted that the SRA will work with Kaplan (the SQE provider) to monitor the diversity characteristics of those completing the assessment.

Please see section 4.1.1 for the evidence of the effectiveness of initiatives designed to encourage individuals from less advantaged socio-economic backgrounds to pursue a career in law.

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<sup>37</sup> PASS was established by the Inner Temple and 62 different partner chambers across a range of practice areas. Information about the scheme is available here: <https://www.innertemple.org.uk/becoming-a-barrister/how-to-get-involved/pass/>

<sup>38</sup> SEO London prepares talented students from ethnic minority or low socioeconomic backgrounds for career success in a range of professions. More information is available at: <https://www.seo-london.org/about-us/>

<sup>39</sup> The Black Lawyers Division (BLD) was launched in 2006 by solicitor Debo Nwazu, with the aim of highlighting and promoting diversity within the legal profession. A report on the Legal Launch Pad is available here: [http://www.onlinebld.com/uploads/PDF/LLP\\_brochure\\_lores.pdf](http://www.onlinebld.com/uploads/PDF/LLP_brochure_lores.pdf)

<sup>40</sup> The JDF action plan sets out the activities JDF member organisations are undertaking to support and improve judicial diversity.

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### 3.1.2 Retention and progression

The literature indicates that initiatives to overcome diversity-related barriers to retention in the legal sector centre on making employees feel recognised, represented, and supported in their workplace (Braithwaite, 2010; Ashdown, 2015).

#### *Initiatives targeting multiple characteristics*

Braithwaite's (2010) qualitative study involving interviews with diversity staff, lawyers and clients from 13 large law firms, identified several initiatives to help individuals feel that diversity is being promoted in their workplace and that they are being effectively recognised and represented.

- **Diversity events**, such as an annual 'diversity week' with outside speakers providing talks on inclusion for staff to help raise the profile of the diversity agenda.
- **Appointment of dedicated diversity staff** to oversee the day-to-day management of diversity policies. Diversity staff have day-to-day responsibility for most diversity policies of a law firm and are the 'contact person' for parties outside the firm on matters pertaining to workforce diversity, such as campaign groups conducting surveys. Within firms, diversity staff sit on committees, organise training, and are 'confidantes' for staff with protected characteristics who may want to discuss their experiences at work.
- **Diversity Committees** are either partner-only sub-committees of the main board of a firm or a committee comprising a mix of partners, associates, and diversity staff. Across the sample of law firms interviewed by Braithwaite (2010), diversity committees were reported to have responsibility for liaising with the main board of the firm, drafting diversity statements, overseeing data collection exercises and working with diversity staff on tasks such as in-house consulting about which diversity issues should be prioritised.
- **Demographic data monitoring** by firms allows progress towards increased diversity to be tracked and facilitates transparency and accountability for the composition of a firm's workforce. For example, **the Diversity League Table**,<sup>41</sup> which is compiled by the Black Solicitor's Network (BSN)<sup>42</sup> consists of data voluntarily disclosed by 50 large law firms on the percentages of black, Asian and minority ethnic, female, LGBTQ+, and disabled staff (Braithwaite, 2010).

Recognising best practice across the industry further supports the aim of legal firms to evidence the actions that they are taking to improve representation. Diversity awards reward firms' progress with respect to the position of particular groups in their workforce, including the Workplace Equality Index<sup>43</sup> run by Stonewall<sup>44</sup> and the Black Solicitors Network's Diversity Awards<sup>45</sup> (Braithwaite, 2010). As evidenced by Ashdown (2015), annual cross-firm diversity forums of 25 law firms are held in London and across England and Wales every year. These forums bring firms together to learn about best practice on specific issues and to network with like-minded people.

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<sup>41</sup> The Diversity League Table presents as a series of organisational profiles and leagues tables, ranking participating firms and chambers in key areas, as well as presenting an overall ranking. More information is available here: <https://www.blacksolicitorsnetwork.co.uk/about-the-dlt/>

<sup>42</sup> The BSN is funded by The Law Society, which is a JDF partner. However, we felt that it is more appropriate to include this information in this section due to its relevance to initiatives undertaken in solicitors' firms.

<sup>43</sup> The Workplace Equality Index is a voluntary benchmarking tool for employers to measure their progress on LGBTQ+ inclusion in the workplace. Employers demonstrate their work in 10 key areas and are scored on their progress, enabling them to see how they've performed in comparison with their sector and region. The 100 best-performing organisations are celebrated publicly. More information is available here: <https://www.stonewall.org.uk/creating-inclusive-workplaces/workplace-equality-indices/uk-workplace-equality-index>

<sup>44</sup> Stonewall is Europe's largest LGBTQ+ charity which works with institutions to create inclusive and accepting cultures and to empower institutions as advocates and agents of positive change. Stonewall's website is here: <https://www.stonewall.org.uk/about-us/our-mission-and-priorities>

<sup>45</sup> The UK Diversity Awards took place in November 2019. Results are listed here: <http://diversitylegalawards.org/latest-results/>

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Subjects covered have included age, discrimination, working with disabled employees or clients, social mobility, support for parents, and black, Asian and minority ethnic recruitment and progression (Ashdown, 2015).

### *Targeted research*

Evidence provided by the JDF action plan (Judicial Diversity Forum, 2020) reported that the Bar Standards Board (BSB) have completed a literature review focused on identifying best practice with regard to equality policies, and are currently conducting qualitative research to explore the impact of the equality policies of Authorised Training and Education Organisations (AETOs) for the vocational component of training for the Bar (previously the BPTC). The BSB has also commissioned a piece of qualitative research as part of a project intended to tackle bullying, discrimination, and harassment at the Bar. The qualitative research will focus specifically on bullying, discrimination, and harassment within the context of race, disability, sex, and sexual orientation.

The JDF action plan (Judicial Diversity Forum, 2020) also indicates that the BSB is currently undertaking a review of the equality rules in its handbook. The review will include a stakeholder consultation and a full equality impact assessment of the equality rules. The aim of the review is to assess the effectiveness of the current rules promoting a diverse legal profession and to inform future policy and improvements to the equality rules.

Within the JDF action plan, it was also reported that the SRA carries out research to gather knowledge on the inclusion and career progression of disabled, black, Asian and minority ethnic, and women solicitors. From this research, the SRA has published resources to promote diversity and inclusion, such as case studies, videos, and examples of good practice in promoting disability and inclusion in law firms.<sup>46</sup>

### *Gender*

Braithwaite's (2010) qualitative research with large law firms found that efforts were being made to help support women to balance their personal and professional responsibilities. Initiatives included making **part-time and flexible working** more feasible by formalising these policies and offering several options, including working from home and job shares. In one firm, a working party had been set up to review the implications of such practices (Braithwaite, 2010). Other initiatives involved the provision of **coaching and mentoring schemes** for new parents or those returning to work after a career break. Some firms were also offering support in the form of **childcare vouchers** or **emergency childcare cover** (Braithwaite, 2010).

Schemes to facilitate the progression of female lawyers from junior to more senior positions are scarce in the literature. However, **the 30% Club** is a global campaign led by Chairs and CEOs taking action to increase gender diversity at board and senior management levels of large organisations, including law firms (Ashdown, 2015). The campaign carries out several actions, such as harnessing public media support to increase visibility of the scheme, organising speakers at university diversity events, as well as promoting and building on research to form an evidence base around what works to increase gender diversity.

### *Ethnicity*

The BSN is a not-for-profit organisation formed in 1995. The aim of BSN is to represent black solicitors and to ensure that their views are heard within the legal profession. The main activity of the network is participating in consultations about matters affecting black, Asian and minority ethnic solicitors (Ashdown, 2015; Braithwaite,

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<sup>46</sup> See: <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/disability/>

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2010). The presence of diversity networks can help solicitors to feel represented, supporting the retention of black, Asian and minority ethnic individuals in the industry.

Evidence within the JDF action plan (Judicial Diversity Forum, 2020) reported the SRA and the BSB engage in race equality initiatives. For example, the SRA share good practice, and the BSB formed a Race Equality Taskforce in 2019 to promote good practice and provide reverse mentoring.

### *Sexual orientation*

As well as the Workplace Equality Index discussed in the previous section, **Stonewall's Diversity Champions programme**<sup>47</sup> is an initiative that supports employers who want to create inclusive and accepting environments for LGBTQ+ staff. Stonewall works with over 850 organisations throughout the UK, reviewing their policies for inclusion and providing tailored email and phone support and advice through a dedicated account manager (Braithwaite, 2010).

### *Religion*

The evidence base provided limited information on initiatives to support the retention and progression of employees from different faith groups. Across the sample of law firms interviewed as part of Braithwaite's (2010) research, some firms were identified as **making adjustments** in terms of providing prayer facilities in order to accommodate staff with faith-specific needs. In addition, a qualitative study of female and black, Asian and minority ethnic lawyers by Sommerlad and colleagues (2010) found that the **Association of Muslim Lawyers (AML)** now holds its own event to celebrate the activities of members of the Muslim legal community.

Please refer to section 4.1.2 for the evidence of the effectiveness of the initiatives within the legal sector designed to address diversity-related barriers to retention and progression.

## **3.2 Initiatives to promote diversity by JDF partners**

This section outlines initiatives undertaken by JDF partners to promote overall diversity within the legal professions and the judiciary.<sup>48</sup> Initiatives to promote diversity within the legal professions are first outlined, before considering activities undertaken to promote diversity in the judiciary at the pre-application, application, and post-application stages. Each sub-section is organised by relevance to specific protected characteristics where possible, including initiatives targeting multiple characteristics.

### **3.2.1 Initiatives to promote diversity in the legal professions**

The evidence base provided information on activities undertaken by JDF partners to encourage a diverse legal profession, which in turn supports the existence of a diverse candidate pool for judicial appointments. Most of these initiatives are focused on facilitating social mobility.

#### *Initiatives targeting multiple characteristics*

##### *Data gathering and monitoring*

An overarching diversity initiative is The Law Society's **Diversity and Inclusion Charter**, which launched in 2009 and has 467 signatories, representing more than a third of the legal profession in England and Wales (The

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<sup>47</sup> Further information on Stonewall's Diversity Champions programme is available at: <https://www.stonewall.org.uk/diversity-champions-programme>

<sup>48</sup> While the authors recognise that the availability of resources is an important factor influencing implementation of diversity initiatives, the financial resourcing of initiatives was not a focus of this REA.



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Law Society, 2017).<sup>49</sup> The aim of the Charter is to encourage law firms to turn their commitment to diversity into practical actions by helping them to record and measure their initiatives against an external set of diversity and inclusion standards and providing the opportunity to share best practice with colleagues (Ashdown, 2015). The Charter is also accompanied by a set of protocols designed to help signatories fulfil the Charter's commitments in their business, such as the reporting and monitoring protocol, which provides guidance to support the collection and recording of workforce diversity statistics (Ashdown, 2015). Signatories complete an annual self-assessment of their progress and results are published in The Law Society Diversity and Inclusion Charter Annual Review.<sup>50</sup>

In their response to the call for evidence, stakeholders highlighted that they (and other professional organisations within the legal sector) regularly collect and publish diversity data.

Please refer to section 4.2.1 for evidence regarding the effectiveness of diversity data to promote diversity within the legal profession.

*Promoting diversity: strategies and activities*

Responses provided by stakeholders indicated that organisations' equality, diversity, and inclusion (EDI) strategies ensure that diversity is consistently promoted. Specific activities noted included:

• **Diversity staff and committees and professional networks:**

- The Bar Council reported that a dedicated Diversity and Inclusion Team sits within their wider Policy Team and has oversight of the Bar Council's EDI policy, as well as policy related to education and training, and social responsibility.
- The Bar Council also has an Equality, Diversity and Social Mobility (EDSM) Committee comprised of members of the profession who advise on strategy and priorities and provide advice and support on a voluntary basis.
- The Bar Council reported that numerous Bar-based organisations work to support diversity in the profession. These include but are not limited to the Inns of Court; the Circuits; Specialist Bar Associations and individual chambers. Each of these organisations has its own EDI committee and programme of work.
- The Law Society reported that it has a Diversity and Inclusion Manager who is responsible for supporting under-represented groups within the profession who are interested in progressing into the judiciary. The Law Society also reported that they have a Diversity and Inclusion Team comprised of seven members. The work of the team centres on providing practical support to law firms on best practice in ensuring diversity and inclusion as well as facilitating engagement with society members from under-represented groups.

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<sup>49</sup> Evidence provided by The Law Society as part of the stakeholder consultation reported that as of July 2018, this figure had increased to 490 signatories.

<sup>50</sup> Although not a JDF partner, the SRA and the BSB are responsible for producing the relevant statistics for the respective legal professions and have been (and continue to be) involved in initiatives to improve the diversity of the legal professions. For example, the SRA will be working with The Law Society (and other relevant professional bodies) to improve the quality of diversity data across all diversity characteristics (including new standard indicators for social mobility).

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- The Law Society reported that they organise quarterly regional EDI forums, which provide the opportunity for individuals to discuss and learn about EDI topics.
  - Evidence from stakeholders highlighted that professional networks support the promotion of diversity within the legal professions.
  - **Training and support:**
    - The Bar Council reported that they deliver EDI training to members of the Bar, as well as other programmes of activity that promote EDI within the profession.
    - The Bar Council provides a telephone helpline that can be used by individuals experiencing unequal treatment as well as chambers seeking advice relating to management of EDI issues and/or to the development of good EDI practices.
  - **Research activities.** The call for evidence indicated that stakeholder organisations undertake research activities as part of the EDI strategies. For example:
    - The Law Society reported that it undertakes research to understand barriers to diversity within the profession and identify practical solutions that members can put into action with the support of The Law Society.
    - The JDF action plan (Judicial Diversity Forum, 2020) reports that CILEX are planning to roll out an annual survey to gather views and experiences from their membership regarding discrimination and prejudice. The JDF action plan further notes that the survey will specifically focus on measuring the barriers to inclusion faced by black, Asian and minority ethnic CILEX members.

### *Socio-economic status and ethnicity*

Both the Bar Council and The Law Society have undertaken initiatives to improve accessibility to entry-level positions in the legal professions for people from less advantaged socio-economic backgrounds.

### *School level initiatives*

**The Bar Council's Social Mobility Committee** (SMC)<sup>51</sup> was set up in January 2012 and has developed initiatives to widen access to the profession and contribute to government and regulatory policy in the area of social mobility (The Bar Council, 2013). Initiatives encourage access to the profession at an early stage so that young people are able to decide whether they are suited to a career at the Bar. For example, **the Bar Placement Scheme** (which runs in London, Manchester, Liverpool, Leeds, Bristol, Cardiff and Birmingham) allows high-achieving sixth formers from less advantaged backgrounds to spend three days shadowing a barrister in chambers and in court. On the final day of the scheme, students attend talks by barristers and/or judges, and receive advocacy training from the Inns of Court College of Advocacy. Prizes are awarded for the best student advocates by a senior member of the Bar (The Bar Council, 2013).<sup>52</sup> A similar initiative is the **Bar National Mock Trial Competition**, which is run by the Bar in partnership with the Citizenship Foundation. State

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<sup>51</sup> Now a part of the wider EDSM Committee.

<sup>52</sup> Information on the Bar Placement Scheme can be accessed here: <https://www.barcouncil.org.uk/becoming-a-barrister/school-students/bar-placement-scheme.html>

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school children take on the role of lawyers, witnesses, court staff, jurors for the day at the Crown and High Courts (Sullivan, 2010).

#### *University level initiatives*

For aspiring solicitors, The Law Society's **Diversity Access Scheme (DAS)** supports university students from less advantaged socio-economic backgrounds (The Law Society, 2019c). The scheme offers 10 diversity scholarships each year and each place includes a bursary to fund the LPC, work experience opportunities, and mentoring support throughout their studies. Applicants must meet the following eligibility criteria: they must have attended a non-fee-paying school, they must be the first generation of their family to have attended higher education, and/or they must have received free school meals during their schooling. Please refer to section 4.2.1 for evidence regarding the effectiveness of the DAS initiative.

Evidence provided as part of the stakeholder consultation exercise indicated that The Law Society also work with Social Mobility Ambassadors (SMA), who are solicitors from non-traditional backgrounds (e.g. they were the first generation of their family to attend university; they were eligible for free school dinners). The SMAs help people from less advantaged socio-economic backgrounds to understand the legal profession. The SMAs attend university and school-based events and take part in formal or informal mentoring programmes and workshops providing information on the interviewing and application process to becoming a solicitor. The Law Society also publishes interviews and case studies providing advice from the SMAs. The purpose of using these role models is to encourage young people from less advantaged socio-economic backgrounds to pursue a career in law.

Stakeholder evidence reported that at university-level, the Bar Council runs a social media campaign called #IAmTheBar to encourage applicants from less advantaged backgrounds to apply.<sup>53</sup> The campaign was launched in 2018 and profiles the experiences of those who have succeeded at the Bar from 'non-traditional backgrounds'. In 2018, the campaign featured the stories of 11 Social Mobility Advocates. The Bar Council's presence at university careers fairs and law fairs also provides students with the opportunity to learn more about the social mobility initiatives run by the Bar. However, as discussed in section 3.1.1, it is important that this presence is not limited to the most prestigious university events, and includes a range of higher education institutions, new and old.

#### *Financial assistance*

The JDF action plan (Judicial Diversity Forum, 2020) reported that CILEX are developing a bursary scheme to address financial barriers to legal education and training faced by those from less affluent socio-economic backgrounds.

#### *Recruitment practice*

To support recruitment, The Law Society (2016) has developed a toolkit that highlights fair recruitment practices to eliminate barriers that aspiring solicitors may face due to their socio-economic background. It is designed for partners, human resources professionals, and anyone involved with the management of a law firm and the trainee recruitment process. This toolkit identifies techniques to eliminate unconscious biases from the recruitment process and starts from the position that awareness of bias is a helpful way to eliminate it. A further strategy discussed in the toolkit is contextual recruitment, allowing firms to assess candidates' academic and other achievements in the context of their social background. The aim of contextual recruitment is to identify or 'flag' candidates who are from less advantaged socio-economic backgrounds in order to understand which

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<sup>53</sup> Information on the Bar Council's #IAmTheBar campaign is available here: <https://www.barcouncil.org.uk/resource/-iamthebar-campaign-confirmed-for-bar-council-pupillage-fair-2018.html>

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candidates might benefit from adjustments in the recruitment process (e.g. reduced A-level requirements for some students).

#### *Celebratory and networking events*

As part of their response to the call for evidence, The Law Society reported that each October, they hold an annual Black History Month Inspiration Evening. The event highlights and celebrates the positive contribution of minority lawyers in the profession and provides the opportunity for attendees to network and build new professional relationships.

#### *Ongoing, targeted research*

Evidence provided by the JDF and reported in the JDF action plan (Judicial Diversity Forum, 2020) indicates that The Law Society is undertaking multi-faceted research on the experiences of black, Asian and minority ethnic solicitors, particularly in terms of accessing and progressing through the profession. The key aim of the research is to understand whether and how these experiences have changed over time, what progress has been made, and in which areas work is still needed. An advisory group has been set up to provide input and insight to help inform this research and a report of findings is expected to be produced in autumn 2020.

#### *Disability*

The literature reviewed contained limited evidence on initiatives to support individuals with disabilities to enter the legal professions. However, a research initiative undertaken by Cardiff University in partnership with the Lawyers with Disabilities Division (LDD) of The Law Society called 'Legally Disabled?'<sup>54</sup> maps out the lived experiences of disabled people working or seeking work in the legal professions. The study aims to identify: 1) what barriers exist to gaining employment and career progression and how these may influence the choices people make within the professions and 2) what factors have proved successful in addressing or mitigating some of these barriers. This is a Big Lottery funded programme through the Disability Research on Independent Living and Learning (DRILL) programme across England and Wales. The LDD of The Law Society is a key project partner, helping to shape the research and support work encouraging participation from disabled legal professionals.

More recent evidence provided by the JDF (2020) reports that in partnership with the Legally Disabled Project, The Law Society has launched a survey to collect data on the experiences of disabled legal professionals during and post the COVID-19 lockdown period. A key aim of the survey is to gather evidence of how remote working could be implemented into the working practices of disabled lawyers.

The LDD aims to provide a voice to disabled legal professionals within and outside of The Law Society. **The LDD Mentoring scheme** is offered by members who use their experiences and expertise to support aspiring solicitors and colleagues seeking to progress in the legal sector. The LDD has also been able to provide up to **two weeks of work experience** in partnering law firms for people pursuing law with a disability or long-term health condition. Other activities carried out by the LDD to increase representation of disabled people within the legal professions include: organising networking opportunities, providing a shared platform to exchange views and further mutual interests, contributing to consultations, lobbying organisations and government bodies on

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<sup>54</sup> See the report by Foster and Hirst (2020). More information on the 'Legally disabled?' research project is available here: <http://legallydisabled.com/2017/10/15/the-next-steps/>

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disability issues, and meeting with people at all levels of the legal professions to provide input and advice regarding disability issues.<sup>55</sup>

Evidence provided as part of the stakeholder consultation referred to an initiative started by the Bar Council called **Wellbeing at the Bar**,<sup>56</sup> which delivers support to barristers experiencing mental health difficulties. This service provides a 24/7 Assistance Programme, which offers access to a confidential telephone service that can be used to discuss any emotional and practical problems employees may be experiencing. The scheme also provides online services offering information and assistance with common health concerns.

### *Gender*

Stakeholder evidence indicated that the Bar Council have recently launched the **Accelerator Programme** as part of its **Modernising the Bar** campaign.<sup>57</sup> An initiative under the Accelerator Programme includes the provision of support for women in their first seven years of practice as a barrister.<sup>58</sup> The programme is based on the premise that the progression of barristers within these years influences whether they will remain at the Bar for 10-15 years. This is the point at which retention and progression of women to senior positions becomes a challenge. The Accelerator Programme focuses on the provision of flexible working, mentoring, and increasing visible female role models.

Stakeholders highlighted the **Women in Law Pledge**, which is a partnership launched in June 2019 between the Bar Council,<sup>59</sup> The Law Society,<sup>60</sup> and CILEX.<sup>61</sup> The aim of the Women in Law Pledge is to support the progression of women to senior positions within the legal professions. Organisations that sign up to the pledge commit to work towards fulfilling a series of targets and obligations that promote gender equality and women's progression within the legal professions.

### **3.2.2 Pre- application stage**

The literature highlights several diversity initiatives, which at the time of writing, are being undertaken by JDF partners at the pre-application stage of the judicial appointments process. These initiatives focus on addressing factors that may deter eligible individuals from applying to the judiciary by providing potential applicants with greater insight into the role of a judge and how the judicial application process works. Initiatives also focus on preparing candidates to develop the skills and competencies required for success.<sup>62</sup>

### *Information-sharing, guidance, and skills-building*

- The Pre-Application Judicial Education (PAJE) programme was launched by the PAJE Working Group in April 2019 to provide potential judicial candidates from under-represented groups with an in-depth understanding of the role and skills required of a judge (Judicial Appointments Commission 2020a, 2020b; JUSTICE, 2020). Evidence provided as part of the stakeholder consultation exercise explained that the PAJE programme offers

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<sup>55</sup> The LDD information page is available here: <http://www.lawsociety.org.uk/Support-services/Practice-management/Diversity-inclusion/Lawyers-with-Disabilities-Division/lawyers-with-disabilities-division-work-experience-programme/>

<sup>56</sup> Mental Health & Wellbeing at the Bar, available at: <https://www.wellbeingatthebar.org.uk/>

<sup>57</sup> The Modernising the Bar campaign is designed to break down the barriers that hinder women, disabled, black, Asian and minority ethnic, and LGBTQ+ barristers from progressing in the profession.

See <https://www.barcouncil.org.uk/media/campaigns/modernising-the-bar.html>

<sup>58</sup> Bar Council News Update (2020), available at:

<https://www.graysinn.org.uk/sites/default/files/documents/news/BAR%20COUNCIL%20NEWS%20UPDATE%201303.pdf>

<sup>59</sup> See further: <https://www.barcouncil.org.uk/support-for-barristers/equality-diversity-and-inclusion/women-in-law-pledge.html>

<sup>60</sup> See further: <https://www.lawsociety.org.uk/campaigns/women-in-leadership-in-law/tools/the-women-in-law-pledge>

<sup>61</sup> See further: [https://www.cilex.org.uk/media/media\\_releases/legal\\_profession\\_launches\\_women\\_in\\_law\\_pledge](https://www.cilex.org.uk/media/media_releases/legal_profession_launches_women_in_law_pledge)

<sup>62</sup> Since the time of writing, the approach taken on these and other initiatives has been updated. Latest information can be found in the current JDF action plan: <https://judicialappointments.gov.uk/wp-content/uploads/2022/12/JDF-Priorities.pdf>

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an open online learning platform, containing short videos and podcasts covering five learning modules (judgecraft, job framework, judicial ethics, resilience, equality and diversity). Following completion of the digital learning modules, PAJE participants can apply to take part in a judge-led discussion group course.<sup>63</sup> The aim of the discussion group course is to improve participants' understanding of the experience needed to become a judge and how to demonstrate this experience for the JAC competency framework, with places prioritised for lawyers from under-represented groups.<sup>64</sup> Please see section 4.2.2 for evidence regarding the effectiveness of the PAJE programme.

- Evidence provided by the JDF indicates that similar initiatives have been actioned by the Solicitor Judges Division (SJD) and are supported by The Law Society to help increase the number of solicitors applying to the judiciary (see also Judicial Diversity Taskforce, 2015).<sup>65</sup> The SJD uses a variety of online tools to provide information about the judicial appointments process, including a designated mailbox for enquiries from potential applicants, a webpage and an e-newsletter including essential information and updates on the JAC, upcoming events and new resources. Other resources include publications on The Law Society's social media account about accessing the judiciary and dedicated podcasts (e.g. discussions with solicitor judges). The stakeholder consultation responses suggested that webinars in partnership with the JAC would be launched in September 2020 and would focus on preparation for judicial selection days. Events held by the SJD also present networking opportunities for aspiring and sitting solicitor judges to connect; part of this information sharing activity includes the Judicial Pathway, a website tool authored by HHJ Alexandra Marks OBE in partnership with the SJD. The Judicial Pathway aims to provide clear guidance to solicitors, at all stages of their career, on how they can upskill to secure judicial appointment. The website tool was updated in 2019 and uploaded to the SJD website, circulated to members through the e-newsletter and discussed at SJD networking events. It was also publicised through The Law Society's social media channels. The SJD are also planning several activities, which include webinars for solicitors in fee-paid judicial roles seeking promotion in a senior/salaried role; workshops planned for spring 2021 for aspiring solicitor judges; and the launch of a survey to gather solicitors' perceptions and experiences of the judicial appointments process (Judicial Diversity Forum, 2020).
- Stakeholder consultation evidence reported that an initiative developed by The Law Society to improve solicitors' preparation for judicial appointment is the Judicial Application Workshop,<sup>66</sup> which runs 6-8 times a year (see also, Judicial Diversity Taskforce, 2015). This course equips delegates with the skills to help enhance their application for judicial office and interview performance. Participants are provided with practical advice on completing the application form, as well as interview practice with feedback. The workshops are aimed at all solicitors in the process of or considering judicial application but are limited to 12 participants per course. In August 2020, The Law Society delivered a free webinar led by their workshop's moderator, on evidencing competencies as part of the judicial application process.
- Evidence provided by the JDF reported that the Judicial Office runs up to six Judicial Application Seminars a year to provide up to date guidance and advice on the JAC's selection process; the seminars also provide an opportunity to ask questions about life as a judge and the judicial selection process. The aim of the initiative is to address lack of understanding of the judicial role and application process. The seminars are open to qualified legal professionals who are either: female, from a black, Asian and minority ethnic background,

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<sup>63</sup> Due to the COVID-19 pandemic, the judge-led discussion groups have transitioned to online delivery for 2020 and early 2021.

<sup>64</sup> Further information on the PAJE can be found here: <https://www.judiciary.uk/diversity/pre-application-judicial-education-programme-paje/>

<sup>65</sup> Now the Judicial Diversity Forum.

<sup>66</sup> The CILEX Judicial Development Programme (2020), available at: [https://www.cilex.org.uk/about\\_cilex/about-cilex-lawyers/why-be-a-cilex-lawyer/cilex-judges/about\\_the\\_judicial\\_development\\_programme](https://www.cilex.org.uk/about_cilex/about-cilex-lawyers/why-be-a-cilex-lawyer/cilex-judges/about_the_judicial_development_programme)

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attended a (non-fee paying) state school, or were the first generation in their family to attend university. Capacity is limited to 50 participants per seminar.

- The CILEX Judicial Development Programme is a scheme (described in evidence provided by stakeholders) that was developed to help CILEX members to decide whether or not they wanted to apply for judicial appointment and, if so, to provide practical support. The course consists of a number of phases, starting with the 'Give yourself an Advantage' online training, which provides advice on completing the application form and interview practice with feedback. The other elements of the course include a series of guidance sessions with a judicial mentor and ongoing contact with CILEX, who provides goal-setting and wellbeing support. The course costs £450, however, CILEX supports individuals from under-represented groups to access it through its charitable activities. CILEX is also producing webinar products for members focusing on the topic of seeking judicial appointment. These initiatives help to address the barrier of the 'professional hierarchy' outlined in chapter 2, whereby barristers are viewed as the preferred candidates for judicial office. Please refer to section 4.2.2. for evidence of the effectiveness of the CILEX Judicial Development Programme.

Evidence provided by the JDF describes the **Section 9(4) Support Programme** led by the Judicial Office, which gives up to 15 participants:

- The opportunity to meet with a judge in the High Court and to speak with them about the nature of the work and their role, to help participants to decide whether a High Court appointment is suitable for them.
- Access to a one-day workshop offering guidance on how to prepare for the selection exercise. It also provides tips and advice on presenting evidence against the JAC's skills and abilities framework used during the selection process.

**The Solicitor Support programme** is aimed at senior lawyers considering applying to become Deputy High Court Judges (DHCJ; selected with assistance of City of London Law Society). The JDF provided evidence that the programme offers two workshops focusing on the JAC process and role of DHCJ. Participants will be mentored by a High Court or Court of Appeal judge.

As part of its positive action strategy, The Law Society is running a free, one-day workshop called **Becoming a Judge** for black, Asian and minority ethnic solicitors interested in applying to the judiciary. This initiative was highlighted in The Law Society's response to the stakeholder consultation. Eligible professionals must have been practising for at least seven years. Applicants receive practical advice on completing the application form, including how to effectively incorporate their experiences in the competency-based submission. Training also provides interview practice with feedback from a panel. The workshop currently runs twice a year.

#### *Mentoring and shadowing opportunities*

Mentoring and shadowing opportunities are offered by the Judicial Office, the Judicial Diversity Committee of the Judiciary of England and Wales, and the Bar Council to provide potential applicants with practical insight into a judicial role, as well as the skills and experiences required to succeed. Mentors from diverse backgrounds can also act as role models and encourage potential candidates to apply to the judiciary (Judicial Diversity Taskforce, 2015; Judiciary of England and Wales, 2017, 2019a; JUSTICE, 2020).

- **The Judicial Mentoring Scheme** provides the opportunity for participants to shadow a judge for up to two days. The scheme is open to barristers, solicitors, Fellows of the Chartered Legal Executives (CILEX), and professionally qualified legal academics. It targets under-represented groups in the judiciary (women, black,

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Asian and minority ethnic candidates and those who attended a non-fee-paying school/were the first in their family to attend university) and includes pre-application workshops for participants. Applicants must be seeking an appointment in the next two years or at the next available opportunity (Judiciary of England and Wales, 2017; JUSTICE, 2020).

- A related opportunity run by the Judicial Office is the **Judicial Work Shadowing Scheme (JWSS)**, which provides the opportunity for qualified legal practitioners considering applying for their first judicial appointment to spend up to three days observing judges in the courts in England and Wales. It also applies to judges wishing to move up the judicial ladder. The scheme aims to widen the pool of applicants applying for judicial office by de-mystifying the judicial role and offering experience of being a judge (Judiciary of England and Wales, 2017; Judiciary of England and Wales, 2019a).
- The Bar Council set up the **Bar Mentoring Service** to specifically support silk and judicial applications from women and black, Asian and minority ethnic barristers (Judicial Diversity Taskforce, 2015).
- **Judicial Role Models** are utilised by the Judicial Diversity Committee to inspire and encourage under-represented groups to apply for a judicial appointment. These role models take part in outreach events as speakers and networking judges and in online videos as personal case studies (Judiciary of England and Wales, 2017). As mentors, they provide guidance, advice, motivation and a safe space to discuss any concerns.

#### *Targeted outreach events*

**Targeted outreach activities** are carried out by the JAC to attract a diverse range of candidates to apply to the judiciary (Judicial Appointments Commission, 2020a, 2020b; Ministry of Justice, 2015). JAC Commissioners regularly present at conferences, workshops and roundtables across the UK with partners in the legal professions and the judiciary targeted at prospective candidates from under-represented groups. These groups are women, black, Asian and minority ethnic lawyers, solicitors and CILEX members. The JAC provides information about what to expect during the selection process to increase transparency about the process and dispel the perception that candidates must have judicial contacts to be successful. These events are organised by associations and societies within the legal profession, including the Crown Prosecution Service, the Chancery Bar Association, the Solicitor Association of Higher Court Advocates, the Employed Bar Association, the Employment Lawyers Association and the Society of Legal Scholars. This is supplemented by publishing articles in specialist legal media to encourage potential candidates to consider judicial careers, and to inform them about the selection process and forthcoming selection exercises. Providing relevant profiles of successful candidates to the JAC website and social media channels supports this activity (Judicial Appointments Commission, 2020a, 2020b; Ministry of Justice, 2015). The JAC also ensures that it advertises all judicial vacancies via the JAC website, monthly newsletter called 'Judging your Future' and social media channels (Judicial Appointments Commission, 2020a, 2020b).

Other outreach events are organised by the Bar Council (and in collaboration with The Law Society and CILEX), which target women and black, Asian and minority ethnic lawyers in London, Leeds and Birmingham. The aim of these events is to explain the appointments process and encourage attendees to consider a judicial appointment (Judicial Diversity Taskforce, 2015).



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### 3.2.3 Application stage and selection process

#### *Initiatives targeting multiple characteristics*

The JAC takes several steps to ensure that application and selection processes are fair and non-discriminatory. Actions taken include:

- **Name-blind sifting of applications** is being rolled out across all exercises, and enhanced feedback is being provided to 'near-miss' candidates to encourage and assist future applications (Judicial Appointments Commission, 2020a, 2020b). As evidenced in the JAC's response to the stakeholder consultation, blind sifting is now fully operational in all selection exercises after this function was added to their digital application platform.
- **Seeking feedback from candidates after each stage of the selection process:** tailored questionnaires are sent after each stage of an exercise to every candidate asking questions about their experience and perceptions of fairness. This supports the continual review and improvement of JAC selection tools (Judicial Appointments Commission, 2020a).
- **Equality-proofing selection exercise materials:** JAC staff and the independent Advisory Group review all selection exercise materials to ensure that the content and tone of selection exercise materials does not propagate stereotypes, colloquialisms or language that may be off-putting to different groups (The Judicial Appointments Commission, 2020a). This includes ensuring that role-play and other scenarios feature characters from diverse backgrounds. The JAC also tests all materials with volunteer candidates and analyses the results, making any necessary adjustments.<sup>67</sup> The use of Quality Assurance Managers (QAMs) within selection teams was also identified within the evidence base. QAMs take a lead on embedding diversity considerations within selection exercise teams and help to ensure selection days are fair to candidates from all backgrounds, and that the negative effects of unconscious bias<sup>68, 69</sup> are being removed as much as possible (Judicial Appointments Commission, 2020a).
- **Diversity Checkpoints:** the JDF provided evidence that the JAC maintains a system of diversity checkpoints at various stages during every selection exercise. The purpose of the diversity checkpoints is to monitor the progression of under-represented groups (including solicitors), at key points in the selection process and to investigate potential reasons for significant drop-offs.
- **Training JAC panel members on fair selection and unconscious bias** and refreshing this training in the panel briefing session before every selection exercise (Judicial Appointments Commission, 2020a, 2020b).
- **Ensuring ethnic diversity in selection panels:** Evidence from the JDF reports that the JAC searches for black, Asian and minority ethnic applicants as part of the rolling recruitment of lay panellists to improve the ethnic diversity of selection panels for JAC exercises. The JAC's stakeholder consultation response indicated

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<sup>67</sup> The Work Psychology Group reviewed the JAC shortlisting tools in 2018 and concluded that the JAC approach is in line with good practice (cited in Judicial Appointments Commission, 2020a).

<sup>68</sup> This report includes actions in place when the research was undertaken in 2020. Since the writing of the report, the Cabinet Office released a written ministerial statement on 17 December 2020 referencing the conclusions from a report by the Behaviour Insights Team, titled: 'Unconscious bias and diversity training - what the evidence says'. The report highlighted that there is a lack of evidence that unconscious bias training positively changes behaviour or improves workplace equality for under-represented groups. In response to the findings of the report it was decided that unconscious bias training would be phased out of the Civil Service, with the recommendation that public sector employers do the same.' See: <https://www.gov.uk/government/news/written-ministerial-statement-on-unconscious-bias-training>

<sup>69</sup> In 2021, the JAC reviewed Fair Selection training for panel members in light of the Government Equalities Office's report on unconscious bias training and revised accordingly: <https://www.gov.uk/government/publications/unconscious-bias-and-diversity-training-what-the-evidence-says>

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that the JAC will introduce an “exercise gateway test” which specifies that, overall, panels must have ethnic diversity for the selection exercises to proceed.

- **Targeted outreach and support for senior court and tribunal roles:** As of 2020, the JAC was undertaking a 2-year pilot programme (funded by the MoJ) designed to provide targeted outreach and support (i.e. advice and guidance) to under-represented groups in senior judicial roles (Judicial Diversity Forum, 2020).
- The **Equal Merit Approach** is used by the JAC at the shortlisting and final decision-making stage. As noted in chapter 2, where two or more candidates are assessed as being of equal merit, the JAC can select a candidate for the purposes of increasing judicial diversity using the equal merit provision. The selection applies to the under-represented characteristics of gender and ethnicity (Gyorfi, 2017; Judicial Appointments Commission, 2020a, 2020b; Judicial Diversity Taskforce, 2015; Ministry of Justice, 2012a, 2012b, 2015).

### *Disability*

There is limited information in the literature about initiatives to support disabled candidates at the stage of applying to the judiciary. However, throughout the process, the JAC makes reasonable adjustments as requested for candidates who need them, such as extra time in assessments for those with learning disabilities. The JAC publishes a reasonable adjustments policy on its website (Judicial Appointments Commission, 2020a, 2020b).

### *Ethnicity*

#### *Targeted research*

To address the under-representation of black, Asian and minority ethnic lawyers amongst senior judges, the judiciary is planning to conduct research to understand what can be done to increase the appeal of a senior judicial post for qualified black, Asian and minority ethnic lawyers (Judicial Diversity Forum, 2020). The intention is for the findings of the research to inform future strategies and initiatives to increase representation of ethnic minority judges within the senior judiciary.

For evidence of the effectiveness of the steps taken by the JAC to ensure the application and selection processes are fair and non-discriminatory, thereby promoting judicial diversity, please see section 4.2.3.

### **3.2.4 Post-appointment initiatives**

The evidence provided less information about initiatives undertaken by JDF partners to promote diversity after judicial appointment. These initiatives are focused on the retention of individuals from under-represented groups within the judiciary, as well as activities to support their career progression in order to increase representation within the senior judiciary.

#### *Initiatives targeted at multiple characteristics*

A consultation paper ‘Modernising Judicial Terms & Conditions’ was open for comment from 15 September to 1 December 2016. As reported in the Government’s response, the Ministry of Justice (2017) began working with the judiciary and the JAC to make it easier for talented legal professionals from outside the Bar (e.g. academics, in-house Counsel or solicitors working in private practice) to go straight into the High Court by widening the pool of ‘direct entry’ candidates.<sup>70</sup> The Judicial Office is also undertaking a programme of activity to support the

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<sup>70</sup> Direct entry candidates are talented legal professionals who have not had previous judicial experience. See <https://www.gov.uk/government/speeches/women-in-the-legal-industry> for further details.

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judiciary in broadening opportunities for career development. This includes improving career support to judges by ensuring that conversations are taking place to address personal aspirations, with tailored development opportunities (such as bespoke training, challenging cases or coaching; Ministry of Justice, 2017).

A **Section 9(1) Seminar** was run by the Judicial Office in September 2020 for all judicial office holders. The seminar was attended online by 101 judges and provide those attending with up to date guidance and advice on the JAC's selection process for more senior judicial roles.

A separate online seminar was also held in September 2020, attended by 99 judges with aspiration for appointment as District Judge.

The JDF action plan reported that the Judiciary will also be publishing a five-year strategy later in 2020 that is targeted particularly on supporting retention and progression of under-represented groups through the judiciary (Judicial Diversity Forum, 2020).<sup>71</sup> Key areas of focus will include encouraging:

- A more inclusive and respectful working environment.
- A more diverse pool of applicants for judicial posts.
- Career development of existing judges.

### *Gender*

To help retain female judges, the JAC worked with the MoJ and Her Majesty's Courts and Tribunals Service (HMCTS) to review the current MoJ **Salaried Part-Time Working (SPTW) policy** to support the provision of a more **flexible working** pattern/environment within the judiciary (Judicial Appointments Commission, 2020b; Ministry of Justice, 2012a, 2017). The JAC's position is that salaried part-time working should be available by default, unless there are good and specific reasons why it is not practicable. New guidance has been developed to help ensure correct and consistent application of the new judicial salaried part-time working policy (Judicial Appointments Commission, 2020a, 2020b). The revised policy was published in September 2020.

Regarding evidence of effectiveness of post-appointment judicial diversity initiatives, please see section 4.2.4.

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<sup>71</sup> Since the writing of the present REA, the 2020-2025 strategy has been published and can be accessed here: <https://www.judiciary.uk/wp-content/uploads/2020/11/Judicial-Diversity-and-Inclusion-Strategy-2020-2025-v2.pdf>

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# 4. Effectiveness of existing diversity initiatives

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## Chapter summary

- While there are a substantial number of initiatives to promote diversity within the legal professions and judiciary, the review of the literature and responses to the stakeholder consultation provided **limited evidence of their effectiveness**.
- From the evidence obtained, **improvements in diversity** appear to be concentrated within the more **junior ranks** of the professions.
- At the time of writing, there is a **lack of formal evaluation** work to assess the **efficacy** of diversity initiatives; therefore, any improvements in diversity cannot be directly attributed to specific initiatives. Similarly, there is a **lack of clear guidance** from the JDF on what the desired outcomes of diversity initiatives should be or how they should be measured, limiting opportunities for robust evaluation.

This chapter synthesises the evidence regarding the effectiveness of existing initiatives (as of 2020) designed to promote diversity within the legal profession as a whole and at the level of judicial application and appointment. The chapter is divided into two substantive sections: the first section presents evidence of the effectiveness of general efforts to promote diversity within the legal professions (i.e. not JDF partner-specific); the second section sets out evidence of the effectiveness of diversity initiatives undertaken by JDF partner organisations.

It should be noted that the review of the literature contained limited evidence of the effectiveness of diversity initiatives. Further, responses to the stakeholder consultation indicated that the lack of monitoring and evaluation of initiatives is a current gap in the evidence base that needs to be addressed. Stakeholders also reported that the JDF has not clearly set out what the desired outcomes of diversity initiatives should be or how they should be measured, which further hinders robust evaluation efforts.

### 4.1 Effectiveness of diversity initiatives in the wider legal profession

Within this section, evidence of the effectiveness of initiatives designed to overcome barriers to diversity in relation to access, retention, and progression within the wider legal profession is presented.

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#### 4.1.1 Access to the legal professions

As set out in chapter 3, there are a number of initiatives designed to encourage individuals from less advantaged socio-economic backgrounds to pursue a career in law. Yet, the evidence reviewed provided little information on how effective these initiatives have been. While there was a lack of robust evaluation evidence, some tentative indications of effectiveness were identified within the literature. These findings are indicative of positive developments to address barriers associated with a less advantaged socio-economic background. However, some caveats are warranted: first, the findings are not recent; second, the findings do not represent the outcome of robust impact evaluation, which limits the possibility of attributing any improvements in diversity to the initiative in question.

- Dursi (2012) reported that approximately 1,500 schools had engaged with diversity initiatives implemented by the Inns of Court, and the Inns provide approximately £5 million per year in scholarships (to cover the GDL and/or the BPTC and pupillage) so that financial disadvantage does not present a barrier to aspiring barristers.
- Sullivan (2010) cited evidence from the Sutton Trust (2004) indicating that the RfE Programme at the University of Leeds has a positive impact on students' progression to higher education, with participants in the programme more likely to enter higher education and attend a Russell Group university than students who do not (87% vs. 65% and 45% vs. 21%, respectively).
- Sullivan (2010) also reported that a programme run by SEO London, which aims to help secure training contracts for black, Asian and minority ethnic individuals, had resulted in an 80% success rate for interns seeking to secure a full-time position with a sponsoring firm.

As noted in chapter 2, the review of the literature identified references to the increasing diversity of entry-level legal professionals (Ashdown, 2015; Barmes & Malleson, 2011; Bindman & Monaghan, 2014; Sommerlad, 2015). However, while an increase in the diversity of individuals entering the legal professions is a positive step, there is a lack of evidence that can attribute the increase in diversity to the effectiveness of diversity initiatives. Moreover, the increase in diversity appears to be concentrated on visible diversity characteristics (i.e. gender and ethnicity) and does not 'trickle up' to the more senior levels of the professions (Bindman & Monaghan, 2014; McKee et al. 2018; Ward et al., 2012).

#### 4.1.2 Retention and progression

As with access and recruitment to the legal professions, chapter 3 presented evidence from the literature on diversity initiatives within the legal sector designed to improve retention and progression of under-represented groups. However, the evidence base for the effectiveness of these initiatives was also limited.

##### *Shallow motivations for diversity initiatives*

Within the literature, views on the motivations and effectiveness of diversity initiatives implemented by law firms were somewhat cynical. Braithwaite (2010) and Kumra (2015) noted that while many large law firms engage in diversity management activities, such as signing up to The Law Society's Diversity Charter or developing diversity policies, these initiatives have done little to improve diversity within the legal professions. Kumra (2015) argued that many firms engage in diversity initiatives at a superficial level, motivated both by the need to avoid 'punitive action' and the positive financial benefits that can result from the promotion of diversity. Research by Foster and Hirst (2020, p. 83), which explored the experiences of disabled people in the legal professions, found that some participants felt that diversity initiatives implemented by law firms were "motivated by profit rather than by the objective to improve diversity and address engrained prejudices." This opinion is likely grounded in the

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widely recognised value that diversity initiatives can add to a business case when bidding for new legal work (Braithwaite, 2010; Foster & Hirst, 2020; Kumra, 2015). However, if the motivations for implementing diversity initiatives are grounded in financial benefits, rather than a real desire to increase diversity, the fundamental barriers to retention and progression of under-represented groups will not be removed (Kumra, 2015).

### *Disability*

As noted in chapter 2, accessibility challenges may result in some individuals choosing to leave the legal sector. One type of initiative designed to improve awareness of accessibility challenges is ‘reverse mentoring’, which involves a disabled lawyer mentoring a senior colleague about the “the challenges of navigating an inaccessible working environment” (Foster & Hirst, 2020, p. 88). Disabled lawyers interviewed by Foster and Hirst (2020) who had been involved in reverse mentoring initiatives reported generally positive experiences, including an example of where the initiative had prompted action to improve accessibility.

### *Flexible working*

The inflexibility of the working practices within the legal professions was identified in chapter 2 as a barrier for retention and progression that particularly affects female and disabled lawyers. Correspondingly, in chapter 3 it was noted that improvements to flexible working provisions have been seen within law firms. However, Braithwaite (2010) reported that uptake of part-time and/or flexible working remains low. Joly (2018) suggested that initiatives promoting reduced hours or flexible working are limited in their effectiveness to mitigate barriers affecting the retention and progression of women within the legal professions. Flexible or part-time working patterns may support the retention of women following maternity leave, but such an initiative is unlikely to facilitate career progression. It is argued that while working long hours remains a proxy for commitment and merit, individuals who work flexible or reduced hours will continue to be disadvantaged when they seek more senior positions (Joly, 2018).

## **4.2 Initiatives to promote judicial diversity amongst JDF partners**

Within this section, evidence of the effectiveness of initiatives designed to overcome barriers to diversity by JDF partners is presented. Evidence is organised around the effectiveness of initiatives to promote overall diversity within the legal professions, followed by initiatives focused on early career and pre-judicial application, judicial application and selection, and post-judicial appointment.

### **4.2.1 Diversity in the legal professions**

#### *Diversity data<sup>72</sup>*

The collection of diversity data is one method by which the legal professions are encouraged to be more committed and transparent about diversity.

As noted in chapter 3, an overarching initiative is The Law Society’s Diversity and Inclusion Charter. The Charter aims to encourage law firms to turn their commitment to diversity and inclusion into practical, positive action by supporting practices to record and measure procedures against a set of diversity and inclusion standards (Ashdown, 2015; Vaughan, 2015). However, evidence of the effectiveness of the Charter to break down barriers to diversity is limited. The Law Society (2017) reported that in 2017 more than 210 law firms had completed the Charter’s diversity self-assessment, however this only represents approximately 2% of the legal sector. More positively, The Law Society (2017) reported evidence that improving diversity and inclusion is an increasing

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<sup>72</sup> Since the time of writing, the statistics on diversity in the legal professions and the judiciary have been updated and can be accessed here: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2022-statistics>

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priority for law firms, with over 90% of large firms having a partner-level diversity champion. There have also been reported improvements in diversity recruitment statistics and the overall diversity of the profession, with particular increases in the proportion of female and black, Asian and minority ethnic lawyers. However, it remains that this increase in diversity is concentrated within the more junior ranks of the profession: while 62% of solicitors are women, only 35% are partners; black, Asian and minority ethnic solicitors comprise only 18% of partners (The Law Society, 2017).

Similarly, in a diversity update report, the Judicial Appointments Commission (2020b) noted that data from the Bar Standards Board and the Solicitors Regulation Authority showed that visible diversity (i.e. gender and ethnicity) amongst junior lawyers does not 'trickle up' to the more senior levels of the professions. The most recent data from the Bar Standards Board (2020) and the Solicitors Regulation Authority (2020) shows that, for example, in 2019 only 34% of law firm partners were female and black, Asian and minority ethnic solicitors comprised only 22% of partners – with the proportions decreasing to 29% and 8% respectively for larger firms of over 50 partners. Likewise, in 2019 only 16.2% of QCs were women and black, Asian and minority ethnic barristers comprised only 8.1% of QCs.

While the collection of diversity data may promote transparency about diversity in the legal profession, there is little evidence that the collection of diversity data in general has resulted in meaningful improvements to diversity, or effective challenges to diversity barriers within the professions (Vaughan, 2015). Foster and Hirst (2020) reported that the collection of basic diversity data by law firms was perceived by research participants as a 'tick box' exercise that does little to identify barriers or measure effectiveness of diversity initiatives. Similarly, Braithwaite (2010) has critiqued the validity of using diversity data published by law firms as an indicator of the efficacy of diversity initiatives. In particular, Braithwaite (2010) highlighted the lack of consistency in how firms collect and report diversity data as a key methodological issue that hinders any meaningful measure and comparison of diversity – both longitudinally within the sector and cross-sectionally between firms. In turn, diversity data that is provided by law firms serves as a weak barometer of the effectiveness of any policy designed to improve diversity (Braithwaite, 2010).

### *Socio-economic status*

The Law Society's DAS initiative provides 10 scholarships per year to help university students from less advantaged socio-economic backgrounds overcome some of the barriers to accessing the training and experience required for an entry-level position (The Law Society, 2019c). Each scholarship includes financial support to fund the LPC, as well as work experience and mentoring support. However, the real impact of the scheme on social mobility is likely to be small. Ashdown (2015) noted that recipients of the DAS scholarships still face challenges when trying to secure training contracts with law firms, indicating that additional barriers to diversity, such as law firms' preference for an 'elite' education, may still be at play. More detailed and long-term research on the career trajectories of successful scholarship recipients is needed to assess the effectiveness of the scheme to overcome the socio-economic barriers to entry and progression within the profession.

#### **4.2.2 Early career and pre-judicial application**

While chapter 3 showed that there are a number of initiatives implemented by JDF partners designed to overcome barriers to diversity at early career and pre-judicial application stages, the evidence base regarding the effectiveness of these initiatives is scarce.

The PAJE programme was launched in April 2019 to provide potential judicial candidates from under-represented groups with an in-depth understanding of the role and skills required of a judge (Judicial Appointments Commission, 2020a, 2020b; JUSTICE, 2020). The JDF action plan (Judicial Diversity Forum,

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2020) reported that as of September 2020, 178 individuals have engaged in the PAJE programme with 94 expected to take part during autumn-winter 2020. The PAJE programme is a new scheme so evaluation findings are not yet available. However, responses to the stakeholder consultation indicated that there is an expectation that the programme has great potential to increase the diversity of the pool of judicial candidates. Further, while stakeholders acknowledged that the programme is in its infancy and requires refinement, they also reported that initial feedback from participants has been positive, with some programme participants having successfully secured a judicial appointment. Stakeholder evidence reported that a more formal assessment of the programme's effectiveness will occur in due course.<sup>73</sup>

In chapter 3, the CILEX Judicial Development Programme was noted as a specific scheme developed to help CILEX members from groups under-represented within the judiciary prepare to apply for judicial appointment. Responses to the stakeholder consultation reported that, at the time of writing, 21 CILEX members have successfully completed the programme, with one member appointed to the judiciary. CILEX also deliver a series of webinars focused on judicial appointment, and responses to the stakeholder consultation suggested that CILEX members have engaged positively with the webinars. Again, while the stakeholder evidence points to a positive outcome, the evidence is primarily anecdotal and not the result of a formal assessment of effectiveness.

While there is limited evidence of the effectiveness of initiatives to overcome barriers to diversity at the early career and pre-judicial application stages, responses to the stakeholder consultation indicated that a number of evaluation efforts are planned or underway.

#### **4.2.3 Judicial appointments: application and selection**

As set out in chapter 3, the JAC employ a number of strategies to ensure a fair and non-discriminatory application and selection process for candidates seeking judicial appointment. These combined strategies represent the primary diversity initiative at this level of the legal profession.

Data reported by the JAC indicates a general trend towards improved judicial diversity since the formation of the JAC in 2006 (2020b). For example, there has been an overall increase in the proportion of female and black, Asian and minority ethnic candidates at both the application and recommendation stages of the judicial appointment process (Judicial Appointments Commission, 2020a; Judicial Diversity Taskforce, 2015; Ministry of Justice, 2015). However, 2020 data reported by the MoJ<sup>74</sup> shows that the period 2019-2020 saw slight decreases in the proportions of women and black, Asian and minority ethnic applicants recommended for judicial appointment compared to figures reported by the JAC (2020b) for 2018-2019:

- Women accounted for 50% of applicants, 45% of those shortlisted and 45% of those recommended for judicial appointment. The proportion of women recommended in the period 2019-2020 was 3 percentage points lower than figures reported for 2018-2019 (Judicial Appointments Commission, 2020b). The MoJ (2020) figures also show that women had a slightly higher recommendation rate from shortlisting but a lower recommendation rate from application than men. However, the MoJ (2020) analysis found no statistical difference between the overall success rates for men and women.

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<sup>73</sup> At the time of writing, a review of the PAJE programme was underway but results were not available for inclusion in the REA.

<sup>74</sup> See: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>. Since the time of writing, the statistics on diversity in the legal professions and the judiciary have been updated and can be accessed here: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2022-statistics>



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- Black, Asian and minority ethnic lawyers accounted for 25% of judicial applicants, 14% of those shortlisted and 12% of those recommended for judicial appointment (however, this is under the black, Asian and minority ethnic working age population of 16%). The proportion of black, Asian and minority ethnic lawyers recommended for appointment during 2019-2020 was 2 percentage points lower than the figures reported by the JAC (2020) for 2018-2019. The figures reported by the MoJ (2020) show that black, Asian and minority ethnic lawyers had lower shortlisting and recommendation rates than white lawyers. However, the MoJ (2020) analysis found no statistical difference between the overall rate of success for black, Asian and minority ethnic and white candidates.
  - Recent data also points to decreases in the number of solicitors recommended for judicial appointment. The proportion of solicitors recommended for judicial appointment had previously increased from 21% in 2017-2018 to 41% in 2018-2019 (Judicial Appointments Commission, 2020). However, data reported by the MoJ (2020) shows that while solicitors represented 52% of applicants, 33% of solicitor applicants were recommended for judicial appointment in the period 2019-2020. These figures indicate a decrease in the proportion of solicitors recommended for judicial appointment in 2019-2020.<sup>75</sup> The MoJ (2020) analysis found a statistically significant disparity in the success rates of solicitors and barristers. The MoJ (2020) reported that from application through to recommendation, applicants who were 'ever solicitors' were 50% less likely to be recommended for judicial appointment than applicants who were 'ever barristers' (see p. 31-33).
  - The data reported by the MoJ (2020) shows that for the period 2019-2020, applicants with a disability had a similar recommendation rate as applicants without a disability (both 11%). Comparison with the 2018-2019 data reported by the JAC (2020b) – where candidates who disclosed a disability comprised 10% of judicial applicants and 10% of candidates recommended for appointment by the JAC (in line with the disabled working age population) – indicates a small increase.

Therefore, while there have been overall increases in diversity at the judicial application and selection stages since the formation of the JAC, 2019-2020 saw decreases in the proportion of some under-represented groups recommended for judicial appointment. Moreover, reports by the Judicial Diversity Taskforce (2015) and JUSTICE (2020) have noted that while there have been overall improvements to the diversity of the judiciary, these improvements are most prominent at the less senior levels of the judiciary. Diversity within the more senior courts is less impressive. For example, the data reported by the MoJ (2020) shows that within the courts, women represent 26% of senior judges. The MoJ (2020) data also shows that black, Asian and minority ethnic judges account for 4% of senior judges.<sup>76</sup> These figures point to the need for greater efforts to increase the diversity of the higher courts.

The effectiveness of the JAC strategies to improve diversity at the levels of application and selection for judicial appointment must be considered within the wider context of the diversity of the legal profession as a whole (Ministry of Justice, 2015). To improve diversity across all levels of the judiciary, initiatives to improve diversity within the legal professions more generally must be effective. If the systemic barriers to diversity at entry, retention, and progression within the legal professions remain, the diversity of the pool of eligible candidates for judicial appointment will continue to be limited, which in turn will limit the diversity of the judiciary (Barnes & Malleon, 2011; Ministry of Justice, 2015).

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<sup>75</sup> However, the MoJ (2020) recommend that caution is exercised when making comparisons between this reported data and data reported by the JAC.

<sup>76</sup> However, black, Asian and minority ethnic judges represent 10% of deputy High Court judges (see Ministry of Justice, 2020).

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Finally, while there is limited evidence of the effectiveness of initiatives to overcome barriers to diversity at the application and selection stages of judicial appointment, responses to the stakeholder consultation indicated that a number of evaluation efforts are planned or are underway.<sup>77</sup> Other responses indicated that initiatives are still in the pilot stage and/or data required to assess effectiveness is unavailable.

#### **4.2.4 Post-appointment / senior judiciary initiatives**

As noted in section 4.2.3, while the overall diversity of the judiciary is steadily increasing, this diversity is not seen across all levels of the judiciary. The evidence base indicates that the efforts of the JAC to improve diversity have been more effective in the lower courts and more needs to be done to increase diversity within the senior judiciary (e.g. JUSTICE, 2020).

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<sup>77</sup> Some preliminary findings of evaluation efforts were provided for some initiatives; however, due to the early nature of the findings, stakeholders indicated that results were not for publication. Since the time of writing, a number of priority areas and planned actions for assessing progress have been set out by the JDF. The latest action plan for 2023 can be accessed here: <https://judicialappointments.gov.uk/wp-content/uploads/2022/12/JDF-Priorities.pdf>

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# 5. Diversity within other professions

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## Chapter summary

- The **barriers** to entry, retention, and progression within the science, engineering, and medical professions are **broadly similar** to those identified within the legal professions and judiciary.
- Diversity initiatives include **increasing the visibility** of role-models from under-represented groups; **networking** and **support groups**; **diversity champions**; **reviews** of current practices and policies to remove barriers; **sharing** best practice; **changes to recruitment processes** to reduce unconscious bias; and **changes to training** routes and curriculum to improve accessibility.
- There is a need for **robust evaluation** to measure the efficacy of these initiatives to improve diversity.

As set out in chapter 1, an external ‘top level’ review was carried out to gather information on diversity initiatives undertaken within professions outside the legal sector.<sup>78</sup> The aim of the external review was to obtain a snapshot of diversity initiatives in specified professions to draw comparisons (where appropriate) and identify elements of good practice that may be transferable to the legal profession. The professions included in the external review were specified by the MoJ.

The following professions and associated governing bodies were included:

- **Science:** UK Research and Innovation (UKRI), The Science Council.
- **Engineering:** Royal Academy of Engineering (RAE), Engineering Council.
- **Medicine:** British Medical Association (BMA), General Medical Council (GMC) Nursing and Midwifery Council (NMC), Royal College of Nursing (RCN).

The chapter presents the barriers to diversity experienced within each of these professions and the initiatives they have carried out to increase diversity and representation in their workforce.

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<sup>78</sup> It should be noted that the external review was not the primary focus of this research exercise, therefore the search strategy and resulting evidence presented provides a more ‘top-level’ overview than the other research components. See section 1.4.4 for more detail on the methodology.

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## 5.1 Science

The evidence outlined in this section is drawn from information available from the UKRI and Science Council websites.<sup>79</sup> UKRI<sup>80</sup> is a non-departmental public body of the Government that manages research and innovation funding. Established on 1 April 2018, UKRI brings together seven existing research councils: Arts and Humanities Research Council, Biotechnology and Biological Sciences Research Council, Economic and Social Research Council, Engineering and Physical Sciences Research Council, Medical Research Council, Natural Environment Research Council, and Science and Technology Facilities Council. UKRI also encompasses Innovate UK, a non-departmental public body operating at ‘arm’s length’ from the Government, and the Research and Knowledge Exchange functions of the Higher Education Funding Council for England (HEFCE). It is funded through the Department for Business, Energy and Industrial Strategy’s scientific budget. The Science Council was established by the Royal Charter in 2003 to advance professionalism in science in two ways: registration of scientists<sup>81</sup> and technicians<sup>82</sup> who meet a high standard of competence and who follow an established code of conduct. Types of scientist belonging to the Science Council are: Registered Science Technicians, Registered Scientists, Chartered Scientists and Chartered Science Teachers.<sup>83</sup>

There is some overlap in the evidence identified for science and engineering, as some of the governing bodies of these professions work in partnership towards the joint goal of improving diversity and inclusion across science, technology, engineering and maths (STEM) careers.

### 5.1.1 Barriers to diversity within the profession

The Science Council, in partnership with the RAE, have developed a Diversity and Inclusion (D&I) Progression Framework to help monitor progress across the signatories of 63 professional engineering and scientific bodies (Royal Academy of Engineering & Science Council, 2017). The framework identifies four levels of good practice: Level 1 – Initiating, Level 2 – Developing, Level 3 – Engaging, Level 4 – Evolving. Level 1 is the lowest self-assessment score, while Level 4 is the highest. The scoring system of the framework is applied across eight areas of activity: governance and leadership; membership; conferences and events; education and training; prizes awards and grants; communications; marketing outreach and engagement; employment; monitoring and measuring. The progression framework’s implementation group aims to increase uptake/engagement from different bodies (across engineering and science). Benchmarking is carried out every few years, most recently in 2017, with all professional bodies invited to take part in the next collective benchmarking exercise scheduled to take place in December 2020. As part of a benchmarking exercise assessing progress against the D&I Framework, 21 professional scientific bodies took part in a self-assessment process, which identified several challenges to delivering on diversity and inclusion priorities. These challenges are likely to create barriers for representation in the workforce (Bond & Shapiro, 2017):

- **Limited demographic data collected for monitoring purposes.** Scientific bodies do not routinely collect demographic data on the ethnicity and disability of their members. For example, only five of the 21 scientific bodies who participated in the benchmarking exercise collected and retained data on the ethnicity of the

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<sup>79</sup> Due to the broad nature of science as a profession, the review within this section centres on UKRI and the Science Council as the overarching governing bodies due to their broad membership.

<sup>80</sup> This information is provided on the UKRI website, available at: <https://www.ukri.org/about-us/>

<sup>81</sup> The Science Council defines a scientist as someone who systematically gathers and uses research and evidence, to make hypotheses and test them, to gain and share understanding and knowledge. The definition is available here: <https://sciencecouncil.org/about-science/our-definition-of-a-scientist/>

<sup>82</sup> The Science Council defines science technicians as including a wide variety of highly skilled positions, such as: data scientists, data engineers, archivists, informaticians, statisticians, software developers (e.g. a software programmer in a research laboratory), audio-visual technologists (e.g. a sound engineer at a recording studio) and technical professional staff across all disciplines. The definition is available here: <https://sciencecouncil.org/about-science/our-definition-of-a-science-technician/>

<sup>83</sup> The Science Council website is available at: <https://sciencecouncil.org/>

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recipients of various annual prizes and grants offered by professional scientific bodies.<sup>84</sup> Only seven scientific bodies could provide data on ethnicity across their membership. Collection of data on sexual orientation and other protected characteristics was not mentioned. The lack of data means that tracking progress towards a more representative workforce across membership is not currently possible.

- **Limited scope of activity.** The sector is perceived to focus most of its diversity initiatives on increasing the representation and participation of women in science. There is a need to expand the scope of their diversity and inclusion work to other protected groups (Bond & Shapiro, 2017).
- **Slow progress in education and training.** Over 70% of registered scientific bodies thought they had made the least progress at promoting diversity and removing barriers to under-represented groups in the areas of education, training, accreditation and examinations (Bond & Shapiro, 2017). For example, it is noted that diversity initiatives could have been undertaken to increase visible diversity among panels or provide reasonable adjustments for disabled candidates (Royal Academy of Engineering & Science Council, 2017). This lack of progress in education and training could negatively impact the recruitment and progression of individuals within the profession.
- **Lack of embeddedness.** Diversity is not a core feature of practice within the scientific community, and whilst there are many examples of good practice across scientific bodies, few have a clear action plan in place for how they will address the need for change and increase representation across their workforce (Bond & Shapiro, 2017).

To overcome these barriers, Bond and Shapiro (2017) suggested that scientific bodies should identify and formalise diversity objectives, measures of success, and action plans. Objectives, with actions identified and indicators to track progress, are needed to ensure a coordinated and sustained approach to diversity and inclusion. Actively engaging the professional membership and staff to develop a shared approach to diversity and inclusion will help ensure it is embedded across activities. This will also encourage individual employees to take responsibility and ownership for D&I progress.

### 5.1.2 Initiatives to promote diversity

#### *Gender*

Initiatives to increase gender diversity in science include the Women in Innovation campaign launched in 2016 (prior to the formation of UKRI) to address the under-representation of women engaging with Innovate UK. The campaign was initiated by launching the Women in Innovation Awards Programme in which 41 women were provided with a tailored package of support, including expert advice, training and a senior business mentor to help them to become future leaders (UK Research & Innovation, 2018). A photography exhibition was run with Getty Images<sup>85</sup> to address the limited number of relatable role models for women in innovation and to challenge stereotypes and perceptions. In partnership with the British Consulate in Boston (United States) and the Digital Catapult,<sup>86</sup> a cohort of female entrepreneurs were taken to Boston to showcase women-led businesses from the UK. The UKRI (2018) suggests that because of this campaign, the number of women engaging with Innovate UK

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<sup>84</sup> Every year, scientific bodies award hundreds of prizes, awards and grants to carry out specific scientific research. For example, the Science Council's Continuing Professional Development (CPD) awards are designed to celebrate outstanding professional development in science, showcasing examples of good practice and continuous improvement. More information is available here: <https://sciencecouncil.org/cpd-awards-return-for-2020/>

<sup>85</sup> Getty Images (<https://www.gettyimages.co.uk/>) is a British-American visual media company with headquarters in Seattle, Washington. It is a supplier of stock images, editorial photography, video and music for business and consumers.

<sup>86</sup> Digital Catapult (<https://www.digicatapult.org.uk/>) is the British government innovation agency for the digital and software industry, developed in conjunction with Innovate UK.

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has increased from 14% to 24%. Ongoing commitment to women in innovation is further evidenced through UKRI's Women in Innovation Awards held in 2018 and quarterly Innovation Accelerator Workshops to help get more women innovating in business nationwide (UK Research & Innovation, 2018).

### *5.1.2 Initiatives targeting multiple characteristics*

#### *Strategic initiatives*

In response to the Government's white paper on the UK's Industrial Strategy (2017), UKRI (2018) outlined its organisational approach to ensuring that research and innovation continues to grow in the UK. Their strategy focuses on four key areas, one of which is the need to create a trusted and diverse system of research and innovation. This involves driving a culture of equality, diversity and inclusivity to provide the best opportunities for individuals and teams of people from all backgrounds to thrive. To achieve this, UKRI (2018) outlined the type of actions it aimed to undertake in its first year:

- Engaging with stakeholders to develop a strategy and action plan for equality, diversity and inclusion.
- Consolidating the existing evidence base to guide their work and commission new analysis and research where they identify gaps in knowledge.
- Establishing an External Advisory Group to help articulate the challenges and identify opportunities for UKRI to lead and strengthen equality, diversity and inclusion across the sector.

Including increased diversity and inclusion as a strategic objective of the industry is hoped to promote buy-in from employers and encourage individual organisations to take action to achieve greater diversity and inclusion.

#### *Data monitoring*

UKRI (2020) published diversity characteristic data for its funding applicants and recipients from 2014–2015 to 2018–2019 in the interests of transparency and accountability, and to assess progress. The monitoring capacity was facilitated by the creation of UKRI in 2018, as data has now been harmonised across research councils (UK Research & Innovation, 2020). The monitoring report highlights that the composition of funding applicants by gender and ethnicity has changed over time, with the biggest change in the proportion of ethnic minority co-investigators (CI) (from 12% to 22%) as well as the proportion of female applicants at the CI level (from 27% to 32%). The composition of applicants by age and disability status remained unchanged. Award values also differed by diversity characteristics, with female and ethnic minority awardees winning smaller awards. For example, the median award value for ethnic minority awardees was approximately 8% less than that of white awardees (£353,000 vs. £383,000) and 15% less for female awardees than males (£336,000 vs. £395,000). This finding highlights a need to understand whether ethnic minority and female applicants tend to apply for smaller awards, or whether there is an influence of other factors such as career stage and discipline.

Despite increased monitoring of diversity, UKRI advise against using these findings alone to draw conclusions on the relationship between protected characteristics, application, and award rates, with further analysis needed to control for the effects of other background factors.

## **5.2 Engineering**

This section outlines barriers to diversity within the engineering profession and evidence on initiatives undertaken to promote diversity amongst PEIs, including within the Highways and Transport sector. As outlined in the previous section, there is some overlap in the evidence identified for science and engineering, particularly

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as the RAE and Science Council have worked in partnership to develop a Diversity and Inclusion Progression Framework (Royal Academy of Engineering & Science Council, 2017).

### 5.2.1 Barriers to diversity within the profession

#### *Entry to the profession*

The evidence base identified several barriers to entering the engineering profession due to its negative reputation and appeal for some groups, impacting the retention of under-represented groups.

- **Lack of existing role models.** The demographic make-up of the engineering profession is considered to be a deterrent to pursuing a career in the sector for women and other under-represented groups. This is because it can be more difficult to imagine having a successful career in the sector without many role models or peers from similar backgrounds (Royal Academy of Engineering, 2016). For instance, data on Board membership in the RAE's joint benchmarking exercise assessing progress against the D&I Framework (Bond & Shapiro, 2017) highlights that across 19 professional engineering institutions (PEIs; out of the 20 PEIs that participated in the Diversity and Inclusion Progression Framework exercise), the proportion of female board members was less than 30% for 10 of the PEIs.<sup>87</sup> In addition, 15 PEIs provided data on the representation of black, Asian and minority ethnic employees on their boards, with 5 reporting black, Asian and minority ethnic membership of just over 10% and four reporting no black, Asian and minority ethnic members. Ten PEIs also reported having no black, Asian and minority ethnic Chairs of board committees. Bond and Wollaston (2015) assessed diversity within the Highways and Transport sector via a survey of the Chartered Institution of Highways and Transportation (CIHT) corporate partners. Twenty-five organisations responded to the survey, 90% of which reported that their workforce and management was predominantly white, and that management roles and board positions were held by men. Forty-six percent of employees agreed with the statement: 'we don't have enough diverse employees for us to use as role models to attract and inspire a more diverse workforce'. A report by Taylor and Turner-Smart (2019) also highlighted the lack of role models in engineering as an issue for LGBTQ+ employees, which may have implications for employees feeling unable to share their sexual orientation at work.
- **Working culture.** The D&I Inclusion Progression Framework benchmarking exercise set out by the RAE and Science Council (see section 5.1.1; Bond & Shapiro, 2017; Royal Academy of Engineering & Science Council, 2017) found that PEIs need to embed diversity and inclusion into the culture of engineering more appropriately. Findings from the Women's Engineering Society's (WES) RETURN Project, which involved a survey of 5,000 responses from women in engineering, demonstrated that 60% of women felt there were barriers preventing them from returning to their STEM careers following a career break. This was due to the belief that there was a lack of supportive working practices (Royal Academy of Engineering, 2016). As evidenced in chapter 2, supportive working practices may include flexible and part-time working patterns, although such practices can be seen to indicate a lack of commitment or merit, which in turn can hinder career progression opportunities.
- **Low awareness about engineering as a career.** As part of the WES project, focus groups with university students found that teenage girls often have limited knowledge about engineering, while educators are often not familiar with how to guide students towards engineering as a career, and are not aware of positive role models of female engineers to share (Royal Academy of Engineering, 2016).

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<sup>87</sup> 20 PEIs participated out of a possible 35 organisations.

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- **Perception of engineering.** Engineering is “portrayed as challenging and a poor fit with girls’ personal identity” (Royal Academy of Engineering, 2016). Within the Highways and Transportation sector, 21% of employees surveyed recognised that ‘our workplace culture can feel unwelcoming to some people such as women, disabled people and ethnic minorities’ and 58% of companies surveyed believe that they need to make themselves ‘more attractive to potential applicants’ with protected characteristics. For example, female and black, Asian and minority ethnic engineers, as well as individuals with disabilities (Bond & Wollaston, 2015).
  - **Lack of confidence among potential female applicants.** The RAE (2016) reviewed Higher Education Statistics Agency (HESA) data regarding the effect of ethnicity, socio-economic background and gender on engineering graduates’ first roles six months following completion of their degree. The data indicated that gender and ethnicity were significant factors in predicting activity for graduates: women were found to have lower confidence in their abilities and were less likely to be in engineering or related roles after six months when compared with white males (Royal Academy of Engineering, 2016).
  - **Physical environment.** Bond and Wollaston’s (2015) qualitative study of the Highways and Transportation industry found that 25% of employees felt that ‘the physical environment in which we work is a challenge for an inclusive workforce’. This is particularly problematic for employees with physical disabilities or pregnant people, who may be unable to carry out certain manual tasks due to physical restrictions on their ability to do so.

Finally, as part of the benchmarking exercise assessing progress against the RAE and Science Council’s joint D&I Framework (outlined in section 5.1.1; Bond & Shapiro, 2017; Royal Academy of Engineering & Science Council, 2017), 14 out of 20 PEIs assessed their performance and level of diversity activity to be weakest in education and training, accreditation and examinations. This is a core area of activity for engineering bodies and lack of progress in education and training could negatively impact the recruitment and progression of under-represented individuals within the profession (Bond & Shapiro, 2017).

### *Monitoring diversity*

The benchmarking exercise undertaken using the jointly developed D&I Progression Framework (see section 5.1.1) identified the lack of demographic data gathering as a challenge to promoting diversity within PEIs (Bond & Shapiro, 2017). In terms of disability, out of the 20 PEIs taking part in the benchmarking exercise, only six PEIs provided data on disability of their membership and none of the PEIs collected data on whether the recipients of their prizes and awards had any disabilities. Only seven PEIs could provide data on the ethnicity of their membership. Similarly, Bond and Wollaston (2015) surveyed 50 corporate partners in the Highways and Transportation sector to collect information from their employees about diversity. The study showed that some partners did not collect any data. Bond and Shapiro (2017) have argued that the absence of good monitoring capabilities and lack of data presents a barrier to tracking progress made in promoting diversity or assessing the impact of diversity initiatives. This links to findings from the science profession that point to limited diversity data collection as a barrier to increased diversity. However, as noted in chapter 3, within the context of diversity in the legal profession, there is scepticism around how effective diversity data can be in improving diversity and/or overcoming entrenched barriers to diversity in relation to access and progression within a profession.

## **5.2.2 Initiatives to promote diversity**

### *Entry to the profession*

Practical activities initiated by the RAE to increase diversity of the engineering profession over the last five years (Royal Academy of Engineering, 2016, 2020a), particularly in relation to recruitment, include the following:



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- **The Graduate Engineering Engagement Programme (GEEP).** The GEEP is aimed at increasing the number of engineering graduates from under-represented groups who transition into engineering jobs. The focus of the initiative is on female graduates, black, Asian and minority ethnic graduates, individuals from socially disadvantaged backgrounds, and those from universities other than Russell Group institutions. Networking opportunities and events provide students with the opportunity to network and engage with prospective employers. The GEEP works with diversity groups within the engineering profession including the Association for Black and Minority Ethnic Engineers (AFBE-UK), who support GEEPs recruitment by providing insightful speakers and mentors. The programme won the Race Equality Award in 2019 at Business in the Community's (BITC) Responsible Business Award for its efforts to increase diversity in the engineering profession. Over the last five years, more than 800 students have taken part in the programme; approximately 90% of whom are from black, Asian and minority ethnic backgrounds. At the time of writing, over 30% of participants have secured employment opportunities in engineering because of GEEP (Royal Academy of Engineering, 2020a).
  - **Increased visibility of role models.** The 'Designed to Inspire showcase' involved a series of events with role models from black, Asian and minority ethnic backgrounds, called an 'Audience with...'. These events were targeted at students on engineering-related programmes of study – including pupils and students studying GCSEs, A-levels, Higher National Diplomas and bachelor's degrees. Students had the opportunity to find out more about engineering careers through Q&A sessions with featured role models. To support this project, the RAE and the Tomorrow's Engineers<sup>88</sup> programme produced a booklet entitled 'How many engineers does it take to make a tin of baked beans?'. It includes case studies of successful engineers from a range of backgrounds who entered the profession via different routes and aims to raise interest in the profession and demonstrate the variety of pathways to entry. Other materials created as part of this initiative include videos of successful engineering role models discussing their careers, and artwork posters of individual career timeline profiles of engineers from diverse backgrounds. The aim of these initiatives is to help to broaden students' perceptions of careers in engineering and of successful engineers (Royal Academy of Engineering, 2016). As evidenced in chapter 3, these initiatives are similar to those undertaken throughout the legal profession to provide candidates with an insight into becoming a solicitor, a barrister or a judge through information-sharing and mentoring.
  - **Voices project (managed by WES and funded by the RAE).** Analysis of HESA data regarding the transition into employment for male and female engineering students was used to develop the Voices engagement material and activities. This included a campaign to encourage female students to apply to engineering courses by connecting individuals with a female engineering role model. There has been positive feedback from participating schools about the scheme (Royal Academy of Engineering, 2016).
  - **Alternative routes to training and registration.** Apprenticeships offer an alternative route to entry to the engineering profession. The Technician Apprenticeship Consortium (TAC) has developed a good-practice guide for employers and PEIs recruiting black, Asian and minority ethnic and female apprentices called 'Apprentice recruitment: accessing untapped talent'. The guide provides key messages around appropriate company culture and practices, as well as the need to monitor and track progress. The TAC has also implemented a project called Accessing Untapped Talent, which offers a programme of engagement and support to raise awareness of apprenticeships to female and ethnic minority young people in particular. The

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<sup>88</sup> The Tomorrow's Engineers programme, led by the engineering community, provides a platform for employers to work effectively with schools to inspire more young people to consider a career in engineering. More information about the programme is available here: <https://www.tomorrowsengineers.org.uk/about-us/overview/>

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project is targeted towards regions with fewer apprenticeship applicants and areas with high ethnic minority and socially disadvantaged groups (Royal Academy of Engineering, 2016).

The CIHT provides a number of recommendations to implement in the highways and transport sector for improving the recruitment of employees from under-represented groups (Bond & Wollaston, 2015). Suggestions are to:

- **Review recruitment practices.** For example, remove or reduce the requirement for applicants to have a fixed number of years' experience (which automatically restricts the pool of people who meet acceptance criteria), focusing on aptitude and attitude instead.
- **Challenge recruitment partners.** Hold internal and external partners involved in recruitment to account in delivering a more diverse candidate pool.
- **Insist on a diverse shortlist:** Make a commitment that, where possible, shortlists include qualified candidates from at least one under-represented group.
- **Train recruiters to remove bias.** Make unconscious bias training mandatory for everyone involved in the recruitment process.
- **Diverse recruitment panels.** Make explicit efforts to have women and people from black, Asian and minority ethnic backgrounds involved in recruitment panels.
- **Sign up to diversity kitemarks.**<sup>89</sup> Examples include the government's 'two ticks' pledge, which offers a guaranteed interview to qualified applicants with a disability.<sup>90</sup>

### *Retention and progression*

To retain employees from under-represented groups, the RAE has supported initiatives that reduce barriers to progression and re-entry to the profession (Royal Academy of Engineering, 2016):

- **WES RETURN project.** The RETURN project is funded by the RAE and aims to identify ways to support members on career or maternity breaks. The project facilitates paid short-term employment placements for professionals returning to work after a career break. Alongside the experience gained from the work placement, the project will also provide support for the candidate in the form of advice, career coaching, networking opportunities and mentoring. All the candidates going through the programme also have the opportunity to restart their career in a permanent position at the end of the programme.
- **Initiatives to support bisexual employees.** An InterEngineering workshop was hosted in 2019 by Rolls-Royce, focusing on how to support bisexual employees in the workplace, and attended by other representative organisations, such as professional services firm Arup (Taylor & Turner-Smart, 2019). The

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<sup>89</sup> A kitemark is a UK product and service quality trade mark which is owned and operated by the British Standards Institution (<https://www.bsigroup.com/en-GB/kitemark/>). It is frequently used to identify products and services that have met certain standards of safety and quality. The concept of a diversity kitemark is used to evidence an organisation's commitment to promoting diversity and inclusion.

<sup>90</sup> More information about the 'Two Ticks' pledge is available here: <https://creativitydiversitynetwork.com/two-ticks-disability-scheme/>

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workshop addressed challenges faced by the bisexual community and how companies could work to improve the workplace experience and health of these individuals.

- **LGBTQ+ networking event and employer roundtable.** In 2013, the first LGBTQ+ in engineering networking event was led by the RAE in partnership with BP and Stonewall, which was followed the next year by a roundtable attended by 11 employers to discuss how to improve retention of and support for LGBTQ+ employees. Feedback from the attendees suggested the event effectively facilitated knowledge-sharing and companies were able to share best practice and take content back to their businesses. Additionally, firms who had not yet established LGBTQ+ policies were able to identify good practice from others (Royal Academy of Engineering, 2016).
- **Ten steps for recruiting and retaining women in STEM.** A ten-point action plan to recruit and retain female engineers was developed by WISE<sup>91</sup> in collaboration with the RAE's Diversity Leadership Group and their corporate partners.<sup>92</sup> WISE and the RAE work with signatory companies who are able to share their experiences and best practice in accordance with the categories of the 10 steps. The steps are as follows:
  - Understand the starting point and describe a measurable endpoint.
  - Explain the business benefits to managers and give them accountability for change.
  - Change mindsets by challenging bias and sexism whenever and wherever it occurs.
  - Be creative in designing jobs.
  - Make flexible working a reality for all employees.
  - Increase the transparency of opportunities for progression.
  - Sponsor female talent, paying attention to career development and giving women the same exposure as men.
  - Demonstrate commitment to retaining and developing talent during and after a career break.
  - Take a structured approach as you would for any other business improvement project.
  - Work with your employees, supply chain and partners to make a bigger difference.

### *Monitoring capability*

In addition to the initiatives outlined above to promote diversity, the RAE has developed a number of mechanisms to facilitate the monitoring of diversity characteristics and measuring of progress towards increased representation. These tools also provide increased accountability for the RAE in delivering its D&I priorities. Examples include:

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<sup>91</sup> WISE is a community interest company that works to increase the participation, contribution and success of women in science, technology, engineering and mathematics (STEM).

<sup>92</sup> The 10 steps initiative is detailed on WISE's website, available here: <https://www.wisecampaign.org.uk/consultancy/industry-led-ten-steps>

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- **Development of the D&I Progression framework in partnership with the Science Council** (Royal Academy of Engineering & Science Council, 2017). Created by the RAE to aid professional bodies and organisations to collate and assess their work on inclusion and diversity. This framework was described in section 5.1.1.
  - **The RAE has also created sixteen measures** through which to assess progress towards diversity and inclusion in leadership as well as in attraction, recruitment, retention and progression processes (Royal Academy of Engineering, 2018). The aim of these measures is to support individual PEI action planning and progress monitoring.

### *Sharing best practice and resources*

A further element of the RAE's activity to promote diversity involves **sharing good practice** to help facilitate change across the engineering profession.

- The RAE has created **the Diversity and Inclusion Leadership Group (DILG)**, a network of engineering employers and employees, which works to promote diversity and inclusion throughout the profession and share best practice. The DILG includes a strategic steering group that sets its ongoing strategy in line with the RAE's Diversity and Inclusion Strategy, and reviews progress towards its goals (Royal Academy of Engineering, 2020a).
- In addition, the RAE established **the Engineering Diversity Concordat Group** in 2012 to coordinate action on diversity across PEIs and improve collaborative learning. As of 2016, 30 of 35 PEIs, together with the RAE and the Engineering Council, have become signatories (Royal Academy of Engineering 2016).
- The RAE has also **developed resources and guidance** for engineering organisations on how to facilitate the creation and maintenance of an inclusive working culture (Royal Academy of Engineering, 2020a). For example, their website provides guidance and short films to support organisations that may wish to have a 'majority allies' programme. A 'majority ally' is an employee who actively addresses barriers to inclusion within their workplace (Royal Academy of Engineering, 2020a).

## **5.3 Medicine**

This section outlines barriers to diversity within the medical profession and evidence on initiatives undertaken to promote diversity amongst doctors and nurses. The BMA and the GMC are the governing bodies for doctors, while the NMC and RCN are the respective bodies overseeing the nursing profession. Most evidence relating to barriers or initiatives to increase diversity amongst doctors is focused on the period of postgraduate training that junior doctors carry out after graduating from medical school.<sup>93</sup>

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<sup>93</sup> All medical graduates must complete an integrated two-year foundation programme of general training in order to practice as a doctor in the UK. On successful completion of the foundation programme, doctors continue training in either a specialist area of medicine or in general practice. After completing this second stage of training, doctors are awarded a Certificate of Completion of Training (CCT) which allows them entry onto the GMC specialist or general practice register. See training pathway guidance provided by the BMA: <https://www.bma.org.uk/advice-and-support/studying-medicine/becoming-a-doctor/medical-training-pathway>

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### 5.3.1 Barriers to diversity within the profession

#### *Barriers to diversity amongst doctors*

##### *Religion and disability*

The GMC identified religious and cultural objections to elements of postgraduate training and examination as a potential barrier for some trainees (General Medical Council, 2015, 2018). For example, conducting autopsies was previously a mandatory component for the award of a Certificate of Completion of Training (CCT) in histopathology, which may have affected the participation of people with certain religious beliefs (General Medical Council, 2015). For example, there are some interpretations of Islam (Sajid, 2016) and Judaism (Eisenberg, 2004), which suggest that autopsy should be forbidden because it violates the body after death.

During medical training there are also certain tasks, such as performing an autopsy, which can be more challenging for those who have physical disabilities, and that could lead to feeling unsupported and hinder progression (General Medical Council, 2015; General Medical Council, 2018).

##### *Ethnicity and gender*

The GMC's (2018) equality, diversity and inclusion strategy for 2018-2020 outlined two barriers to progression through training pathways for female and black, Asian and minority ethnic doctors:

- **Lack of flexible working arrangements.** In line with the evidence presented in chapter 2 within the context of the legal profession, lack of flexible working can also affect the progression of female trainee doctors due to difficulties balancing professional and personal demands, such as childcare responsibilities, with limited support.
- **Differential attainment.** There are variations in the performance of some groups of doctors on exams and other assessments across every stage of medical education and training, indicating potential concerns around the fairness of training pathways. For example, doctors from black, Asian and minority ethnic groups have poorer academic and recruitment outcomes compared to white doctors (General Medical Council, 2018; General Medical Council, 2015).

The GMC commissioned further research to understand the additional barriers to progression experienced by black, Asian and minority ethnic medical graduates in their ongoing training (Woolf et al., 2016). This qualitative study consisted of focus groups and individual interviews with 137 doctors, 96 trainees and 41 trainers about their experiences and perceptions of the fairness of postgraduate training for black, Asian and minority ethnic groups. The research also considered the experiences of female trainees. Woolf et al. (2016) found that:

- Participants felt that black, Asian and minority ethnic and female trainees could be reluctant to report problems they are experiencing at work to their trainers, including racism from a colleague, for fear of being labelled as 'problematic'. The research indicated that this fear is compounded by a prevailing 'belief' within the medical profession that failure results from a lack of motivation or ability.
- Amongst black, Asian and minority ethnic individuals, poorer relationships with senior staff and problems fitting in at work because of identity and cultural differences were felt to lead to fewer learning opportunities, lower confidence, and increased chance of mental health problems.
- Most trainees felt that black, Asian and minority ethnic individuals could experience unconscious bias in training, recruitment, assessment, and exams. Some participants had experienced or witnessed incidents of prejudice and/or favouritism.

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- Specialty training in some hospital-based positions was also perceived as inflexible and un-family-friendly, with surgery seen as having trainers who could be sexist towards female trainees.

### *Barriers to diversity for nurses and midwives*

#### *Ethnicity*

The NMC's (2020a) 'Regulate, Support, Influence' strategy for 2020-2025 notes that black, Asian and minority ethnic individuals are over-represented amongst nurses, midwives and nursing associates compared to the general UK population. However, according to the NMC (2020a), NHS data suggests that ethnic minority staff are under-represented in senior roles, more likely to go through formal disciplinary processes, and more likely to experience harassment, bullying or abuse both from members of the public and colleagues. They are also less likely than their peers to believe their employer provides equal opportunities for career progression or promotion and are less likely, once shortlisted, to be appointed. Additionally, black, Asian and minority ethnic registrants are more likely than their peers to be referred to the NMC for matters that do not, after investigation, require a regulatory sanction.

### **5.3.2 Initiatives to promote diversity**

#### *Entry to the profession*

##### *Initiatives for doctors*

As a designated public authority under the Equality Act 2010, the GMC must comply with the three aims of the Public Sector Equality Duty (PSED):

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not share it.
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

**Changes to the training curriculum** for doctors have been made to improve accessibility of the profession for those with protected characteristics (General Medical Council, 2015). When any changes to curricula, examinations or assessments are developed or approved by the GMC (2015), they must demonstrate their consideration of the impact on those with protected characteristics, including how the changes may lead to barriers or potential discrimination. They must also explain how this can be mitigated in applying the change. This is also the case when there is no obvious direct impact on people with protected characteristics. For example, only holding an examination in London may disadvantage those with a physical disability who might find it difficult to travel long distances. Two case studies further highlight this:

- **Case study 1:** The Royal College of Pathologists removed autopsies as a mandatory component and requirement for the award of a Certificate of Completion of Training (CCT) in histopathology. This change is designed to support doctors in training who feel they have cultural and/or religious objections to carrying out autopsies, who are pregnant, or who have physical disabilities that make them more challenging to carry out. The change was found to be positive in that it broadened the pool of potential candidates as it was easier to be included in training (General Medical Council, 2015).

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- **Case study 2:** Royal College of Obstetricians and Gynaecologists now allow conscientious objection to acquiring certain skills in the core obstetrics and gynaecology curriculum. Some doctors may have objections to carrying out some of the procedures required, such as those with religious beliefs about contraception and abortion. This change will allow all trainees to acquire core knowledge competences without having to compromise their religious beliefs in the performance of certain procedures. Feedback and a survey will be completed to assess how allowing trainees to exercise their right to conscientious objection has influenced their training progression (General Medical Council, 2015).

#### *Initiatives for nurses and midwives*

The NMC have made several changes to their recruitment process including building in anonymity for applicants through their applicant tracking system to mitigate unconscious bias (The National Midwifery Council, 2020b) By strengthening their diversity networks, the NMC feels that this further supports recruitment and retention of under-represented individuals by ensuring they feel represented and able to influence how the sector works in relation to different protected groups. The provision of diversity awards and external standards or assessments further holds the NMC to account in improving the workforce for all protected groups. For example:

- **LGBT+ Network:** A wide range of activities to promote LGBT+ awareness have been undertaken, including taking part in Pride in London and promoting LGBT+ History Month with a series of talks and events raising awareness of trans issues, the work of HIV nurses and the actions being taken to address LGBT+ health inequalities. This work has seen the NMC improve by 251 places in the 2020 Stonewall Workplace Equality Index, moving to 106 (from 357 in 2018) out of over 500 organisations in 2020.
- **The Cultural Network, now renamed BMe,** have organised events including a celebration of the life and legacy of Mary Seacole, and a series of 'lunch and learn' events during Black History Month, a black history walk, and a black leadership event. In 2019, the NMC signed up to the Workplace Race Equality Standards (WRES). WRES has been developed by the NHS, as a tool to measure improvements in the workforce experience of black, Asian and minority ethnic staff.
- **The Workaround Network** represents employees with disabilities, and challenges ideas about disabilities.
- The NMC have also undertaken an external assessment with the **mental health charity Mind**, to help identify areas to improve the wellbeing of employees at work.

#### *Retention and progression*

##### *Initiatives for doctors*

The BMA outlines several initiatives that it has undertaken to support the retention of professionals with protected characteristics, through enhanced flexibility and opportunities for development and progression (British Medical Association, 2016).

- **Corporate Equality and Diversity Initiative learning and development programmes:**
  - The Valuing Difference programme is a free, one day training event for committee members that aims to improve leadership and team performance through understanding the importance diversity, unconscious biases, and valuing difference.

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- The BMA leadership programme (foundation and advanced) is a CPD-accredited course that aims to instil positive leadership values in members, equipping them with the skills and confidence needed to effectively lead others. Since launching in June 2014, the course has trained over 650 committee members.
  - Committee mentoring programme is a centralised scheme aimed at helping newer and less experienced committee members to become more confident in their roles.
  - **Increased flexibility to enable participation on BMA committees.**<sup>94</sup> Provision of video/teleconferencing facilities has been introduced to enable committee members who cannot travel to join meetings the option to do so virtually. Consideration of the timings and dates of meetings is also incorporated into planning to ensure as many committee members can attend meetings as possible. This is felt to support individuals with disabilities and female members of staff when balancing work and personal demands.
  - **Family friendly fund for committee members:** £100,000 has been allocated by the BMA to revise the child and dependent care guidelines to be more inclusive and flexible. This funding is intended to support female employees in particular. This came into effect in December 2013 and now covers pre-school age children, 5-14-year olds and 14-18-year old dependants/adult dependants, to allow committee members to fully participate in BMA activities.

Additionally, the GMC (2018) describe an increased awareness of the diversity agenda amongst staff and consider this to be a key marker of progress towards promoting a diverse workforce. Initiatives that have supported awareness raising include staff training around making fair decisions and managing bias.

#### *Initiatives for nurses and midwives*

The NMC's Equality and Diversity team was shortlisted for the Employers Network for Equality & Inclusion (ENEI) Team of the Year Award 2019 due to several initiatives raising the profile of the diversity agenda at all levels of the organisation (Nursing and Midwifery Council, 2020b):

- **Establishing senior diversity champions** in order to promote buy-in throughout the sector.
- **Providing mandatory equality and diversity training for all staff** on subjects such as gender identity and making reasonable adjustments for patients. Training for management is also offered, which focuses on building inclusive teams and supporting them to create environments where people's diverse backgrounds, skills, and experience are welcomed.
- **Improved IT systems** support a more straightforward process when returning to work for female employees who have been on maternity leave. For example, the new readmissions process reduces the time it takes to readmit to the register to 1 hour. However, the programme is behind schedule and over budget, with the transition expected to be complete by the end of 2020. During 2019–2020, all employees were provided with laptops to support the move to flexible and home working.

To help the organisation deliver its strategic EDI objectives and demonstrate its commitment to increasing diversity in the workforce, the NMC employs a number of tools. These tools include carrying out impact equality

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<sup>94</sup> The BMA have a number of specialist and negotiating committees that consist of elected members, who represent their branch of practice or speciality. BMA committees are involved in contract negotiations and influencing BMA policy making to help improve the working lives of doctors. More information is available here: <https://www.bma.org.uk/what-we-do/committees>



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assessments, running diversity training for staff, as well as data monitoring to analyse progress (Nursing and Midwifery Council, 2017).

Finally, to support the promotion of equality and diversity in the sector, the RCN has developed the Inclusion Café, an online set of resources to help promote inclusion in the workplace by encouraging a culture of 'civility' and fairness and providing a platform where professionals can share inclusion and diversity best practice (Royal College of Nursing, 2018). This initiative is part of the RCN's Equality and Inclusion strategy 2017-2020 (Royal College of Nursing, 2017), which sets out a number of priorities, including the creation of online learning and support tools to empower all RCN members to build their skills in tackling discrimination and promoting inclusion in the workplace. Other proposed initiatives to help retain employees from under-represented groups include relaunching the Diversity Champions scheme, which assigns certain employees the task of promoting inclusive nursing practices (Royal College of Nursing, 2017).

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# 6. Conclusion

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The MoJ commissioned NatCen to compile and appraise evidence on:

- The barriers to diversity impacting entry, retention, and progression of under-represented groups within the legal professions and the judiciary.
- Existing diversity initiatives designed to overcome barriers to diversity and improve diversity within the legal professions and the judiciary.
- The effectiveness of these existing diversity initiatives.
- The barriers to diversity and initiatives undertaken within specified professions outside of the legal sector (i.e. science, engineering, and medicine) to improve diversity.

The evidence review comprised four components that were carried out concurrently: an REA, a landscape review, a stakeholder consultation exercise, and an external review. The evidence identified was synthesised and organised into thematic narratives.

As noted in chapter 1, the methodology applied to the present review required evidence to be identified and summarised within a short timeframe. As such, specific criteria were used to assist with this process, including limiting the review to include evidence from 2010 onwards, which means that it is possible that relevant documents were excluded from the review, or not identified in the first place. It follows that conclusions from this study should be taken with that caveat in mind and a more substantial piece of work in the future (such as a full systematic review) could potentially build on what is presented in this report.

## 6.1 Summary of evidence: Barriers to diversity

Several themes relating to barriers to diversity impacting access, retention, and progression of under-represented groups within the legal professions and the judiciary were identified.

A key theme within the evidence base was that the legal sector appears to favour those who have attended 'top' universities, namely Oxbridge and Russell Group institutions. Moreover, the evidence indicated that this preference can disadvantage individuals from lower socio-economic backgrounds and black, Asian and minority ethnic individuals who are more likely to attend 'newer' universities with less prestigious reputations. The advantage that an 'elite' education provides can be seen across all levels of the legal professions and judiciary. Within the literature reviewed, an Oxbridge or Russell Group degree was found to be a strong predictor of gaining pupillage and an entry-level position at top law firms, while ethnic minority lawyers and non-Oxbridge/Russell Group educated lawyers were reported to experience professional exclusion, such as being assigned to work on cases with low financial and reputational value. At more senior levels, the evidence base suggested that lawyers and judges are predominantly white, privately and Oxbridge educated, and from more

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privileged socio-economic backgrounds. In turn, individuals who do not fit this profile may be deterred from pursuing a legal career and/or a senior position within the legal professions or judiciary.

A number of barriers faced by women in the legal professions were present within the literature. In particular, the culture of long hours, the expectation of '24/7' availability, and the lack of flexible working were identified as barriers to both the retention of women in the sector and their career progression. The evidence also indicated that women are guided towards practising traditionally 'female' areas of the law, such as family or employment law, which are considered less prestigious than traditionally 'male' areas, such as commercial law. A masculine culture also continues to pervade the legal professions, which can create an intimidating and exclusionary environment for women. Examples in the literature included the presence of casual sexism and the culture of networking events and social activities that centre on 'masculine' interests.

The culture and working practices of the legal professions may mean that women are disadvantaged when it comes to acquiring the professional network, experience, and level of seniority to be a suitable candidate for judicial appointment. Female judges are under-represented in the courts, particularly in the more senior courts. The lack of female judges may create an image that the judiciary is an unwelcoming working environment for women and further deter eligible female lawyers from applying for a judicial role.

There was some limited information on barriers experienced by disabled lawyers within the evidence base. Accessibility and disclosure issues were noted as barriers impacting entry, retention, and progression of disabled lawyers across the professions. Previous research has found that limited opportunities to request reasonable adjustments and accessibility challenges can deter disabled individuals from entering certain areas of the profession and/or prompt the decision to leave the legal sector. Similarly, the working practices of the legal professions (i.e. long hours and inflexible working patterns) were reported to have led to some disabled lawyers to stop practising law. Some individuals with non-visible disabilities avoid disclosing their disability due to fear that doing so would hinder opportunities for career progression. Disabled lawyers have described how, after disclosing a disability, they have been assigned work or placed in roles they are over-qualified to do. The culture of professional networking may also present a barrier to career progression for some disabled lawyers if they are not able to fully participate in the networking events due to factors related to their disability.

Specific barriers to judicial work identified within the literature included the inflexible working practices and culture of the judiciary, the isolated nature of the work, and reduction in earnings. These factors were cited as deterring both male and female lawyers from applying for judicial appointment. The perception of a professional hierarchy, whereby barristers are considered to represent the most elite legal professionals, was also raised. This view may prompt solicitors and Chartered Legal Executives to 'self-select out' of the judicial appointment process. However, the barrier of the professional hierarchy may be more salient for Chartered Legal Executives due to the restriction placed on the judicial posts to which they can apply in the court system (i.e. only up to the level of District Court Judge). While there was limited evidence on barriers associated with sexual orientation and gender identity, some evidence suggested that the lack of openly LGBTQ+ judges may deter some LGBTQ+ lawyers from applying for judicial office.

Finally, the review of the literature pointed to a 'trickle-up effect' whereby some of the barriers impacting entry, retention, and progression of under-represented groups in the legal professions can limit the diversity of the judicial candidate pool. Furthermore, the evidence base indicated that there is a perception of bias within the judicial appointments process, which disadvantages under-represented groups.

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## 6.2 Barriers to diversity: Evidence gaps

Most of the evidence regarding barriers to diversity within the legal professions and the judiciary centred on barriers associated with socio-economic background, education (and type of legal training), ethnicity, and gender. Much of the evidence regarding barriers faced by disabled lawyers came from the work of Foster and Hirst (2020), which is part of the 'Legally Disabled' project - a research initiative undertaken by Cardiff University in partnership with the LDD of The Law Society. More evidence is needed regarding the barriers associated with disability (both visible and non-visible disabilities) and other protected characteristics, such as religion, sexual orientation, and gender identity. The 2020 JDF action plan (Judicial Diversity Forum, 2020) reported that the SRA and BSB are undertaking research that includes understanding more about the barriers associated with a range of protected characteristics, including disability and sexual orientation.

While there was some evidence relating to the challenges faced by individuals with intersectional identities (i.e. identifying with multiple under-represented groups), this requires further exploration.

## 6.3 Summary of evidence: Diversity initiatives

The evidence identified numerous initiatives being undertaken within the legal professions more broadly (e.g. by individual law firms and non-JDF partner organisations) to promote diversity, as well as by JDF partners. Initiatives implemented in the wider legal professions focus on overcoming barriers to diversity related to access (with a focus on overcoming barriers associated with social mobility), retention, and progression within the legal professions (with a focus on making employees feel recognised, represented, and supported in their workplace). Examples of initiatives within the literature included insight schemes for school and university students, work experience placements, targeted outreach events, diversity events, diversity committees, dedicated diversity staff, diversity networks, and flexible working opportunities.

Initiatives undertaken by JDF partners that were identified within the evidence base included activities to encourage diversity within the legal professions and encouraging individuals from under-represented groups to apply for judicial appointment. These activities centre on providing potential applicants with greater insight into the role of a judge and how the judicial application process works, as well as preparing candidates with the skills and competencies required for successful appointment to the judiciary. Most of these initiatives are focused on facilitating social mobility. At the application and selection stages of judicial appointment, activities are concentrated on eliminating discrimination and ensuring the processes are fair and transparent. The evidence base provided less information about schemes to retain individuals from under-represented groups once they have been appointed to the judiciary, although examples included salaried part-time working and the introduction of flexible working options.

## 6.4 Summary of evidence: Effectiveness of initiatives

The evidence obtained indicates that the legal professions and the judiciary are becoming more diverse. However, improvements in diversity appear to be concentrated within the more junior ranks. There is also a view that some initiatives aiming to improve diversity provide a superficial improvement, without addressing the roots of the problem. For example, there is a belief that the collection of diversity data represents a 'tick box' exercise, which does little to address barriers to diversity; while the inconsistency in data collection presents a challenge for any meaningful measure and comparison of diversity. A further example within the literature relates to initiatives addressing working practices. That is, flexible or part-time working patterns may support the retention of women following maternity leave; however, such an initiative is unlikely to facilitate career progression while working long hours remains a proxy for commitment and merit.

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Despite the work being undertaken to improve diversity, there is a lack of formal evaluation work to assess the efficacy of these initiatives. Stakeholders also reported a lack of clear guidance from the JDF on what the desired outcomes of diversity initiatives should be or how they should be measured, which further hinders robust evaluation efforts. Therefore, formal research evaluating the successes of diversity initiatives to break down barriers faced by under-represented groups is required.

## **6.5 Summary of evidence: Other professions**

An external review was also carried out to gather information on barriers to diversity and diversity initiatives undertaken within professions outside the legal sector. Professions in science, engineering, and medicine were reviewed.

- Limited collection of diversity data (particularly within the science and engineering professions) was noted as a barrier to monitoring and tracking progress towards a more representative workforce. Therefore, increased collection and reporting of diversity data was a key initiative identified across the professions.
- In line with the legal professions and judiciary, a lack of flexible working and accessibility challenges were cited as barriers for women and individuals with disabilities.
- Across the professions, most evidence was on barriers related to gender and ethnicity. However, barriers associated with disability, sexual orientation and gender identity were identified within the field of engineering; while barriers related to religious beliefs (i.e. in reference to certain medical procedures) were noted for the medical profession.
- Engineering and some areas of medicine (e.g. surgery) have traditionally been perceived as 'male' fields. It was also noted that there are few role-models from under-represented groups (e.g. women, disabled, LGBTQ+ or black, Asian and minority ethnic individuals) in these professions. This can deter individuals who do not fit with the 'traditional' profile from pursuing careers within these fields.
- Across the professions, a number of initiatives to improve diversity have been undertaken. These include initiatives to improve the representation of women and to challenge traditional stereotypes of the professions that may create perceptions that the professions are unwelcoming to under-represented groups. Other initiatives that were identified include networking and support groups; diversity champions; reviews of current practices and policies; sharing best practice; and changes to training routes and curriculum. However, as with the legal professions and the judiciary, there is a need for robust evaluation to measure the efficacy of these initiatives to improve diversity.

Overall, the findings of the external review indicate that the barriers to entry, retention, and progression of under-represented groups within the science, engineering, and medical professions are broadly similar to those identified within the legal professions and judiciary. Likewise, all professions are taking steps to break down these barriers and improve the diversity of their workforces. However, the external review was a top-level information-gathering exercise; therefore, a comprehensive comparison between the barriers to diversity and diversity initiatives across science, engineering, medicine, and the legal professions and judiciary was not possible.

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## 6.6 Recommendations and areas for consideration

The findings presented in this report highlight a number of recommendations and areas for consideration by the MoJ and partners to improve diversity in the legal professions and the judiciary. These include:

- Address the deep-rooted elements of the professional culture that disadvantage under-represented groups. For example:
  - There is a need to remove the perception that part-time or flexible working indicates a lack of professional commitment.
  - Biases that contribute to the professional exclusion of women, black, Asian and minority ethnic, and disabled lawyers from more prestigious areas of the law must be addressed.
  - There is a need to move away from professional networking events that can be exclusionary for lawyers who do not fit the profile of a white, Oxbridge educated male from an affluent background.
- In combination with practical measures to modernise the professional culture, there is a need to address elitism and bias within the legal profession and judiciary.
- The evidence base indicated that more needs to be done to improve knowledge of physical, sensory, and learning disabilities so that the needs of disabled lawyers are more appropriately responded to.
- The financial cost of legal training continues to be prohibitive for individuals from less advantaged socio-economic backgrounds. Increasing the provision of initiatives that provide financial support for legal training is recommended.
- More knowledge of the experiences and barriers faced by individuals with less visible (or 'hidden') diversity characteristics is needed.
- Research to better understand the pool of judicial applicants and their experiences of the judicial application and selection process is needed to provide context to differential performance and outcomes.
- Many initiatives have been (or are planned to be) undertaken, and many organisations are collecting data on diversity characteristics and experiences of under-represented groups. However, it is important that these initiatives are not 'tick box' exercises or only address barriers at a superficial level. Ensuring that initiatives are informed by robust research would help to ensure they are appropriately targeted. Commissioning independent and rigorous evaluation research on process and impact would also be useful in order to evaluate the efficacy of diversity initiatives.

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# Appendix A

## Targeted databases for the REA

Academic databases searched for the REA.

**Appendix table** Error! No text of specified style in document.:1 **Targeted databases for the REA**

Database
HeinOnline
JSTOR
LexisLibrary
Westlaw
Web of Science
Criminal Justice Abstracts
Google Scholar



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# Appendix B

## Exclusion and inclusion criteria

**Appendix table** Error! No text of specified style in document.:1 **Exclusion and inclusion criteria**

<b>Language</b>	Published in English language.
<b>Country</b>	Focus will be on evidence from England and Wales, but relevant literature from other UK countries will also be considered.
<b>Year</b>	2010 onwards as requested in the specification.
<b>Access</b>	Full-texts of documents should be accessible to the research team.
<b>Evidence type</b>	Evidence will primarily be from either grey literature or peer-reviewed journal articles. Due to time constraints, books and monographs will not be included.
<b>Methodology</b>	All research methods. Newspaper articles, magazine, and/or blogs will not be included.

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# Appendix C

## Search terms and strings

**Appendix table C:1 Search terms and strings**

Component	Search strings
Context of the search	"Judicial diversity"
Diversity	BME OR BAME OR race OR ethnicity OR faith OR religion OR belief OR religiosity OR "religious ideology" OR gendered OR gender OR pregnancy OR pregnant OR maternity OR sex OR sexuality OR "sexual orientation" OR transgender OR "gender identity" OR LGBT OR LGBTQ OR disabled OR disability OR age OR "protected characteristic" OR underrepresented OR minority OR prejudice OR discrimination OR bias OR exclusion OR inequality OR diversity
Initiatives	Initiative OR programme OR policy OR process OR intervention OR evaluation OR strategy OR scheme OR objective OR workplan OR plan OR pilot
Barriers	Barriers OR obstacles OR difficulties OR impediments OR obstructions OR hurdles OR gaps OR omissions
Other relevant legal professions	Lawyer OR barrister OR solicitor OR advocate OR paralegal OR jurist OR magistrate OR "legal advisor"
Geographic location	"United Kingdom" OR England OR Wales OR Scotland OR "Great Britain" OR "Northern Ireland"

**NOTE:** each component taps into a theme of the REA and each component's string can be combined with another component's string by using 'AND'. For example, the following combination of strings would be focused on judicial diversity barriers within the UK:

((("Judicial diversity") AND (BME OR BAME OR race OR ethnicity OR faith OR religion OR belief OR religiosity OR "religious ideology" OR gendered OR gender OR pregnancy OR pregnant OR maternity OR sex OR sexuality OR "sexual orientation" OR transgender OR "gender identity" OR LGBT OR LGBTQ OR disabled OR disability OR age OR "protected characteristic" OR underrepresented OR minority OR prejudice OR discrimination OR bias OR exclusion OR inequality OR diversity) AND (Barriers OR obstacles OR difficulties OR impediments OR obstructions OR hurdles OR gaps OR omissions) AND ("United Kingdom" OR England OR Wales OR Scotland OR "Great Britain" OR "Northern Ireland"))

Smaller 'summary' terms broken down from the larger search strings were used where search strings were incompatible with certain databases.

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# Appendix D

## Weight of evidence for REA sources

A weight of evidence (WoE) analysis ensures that the evidence synthesis is based on studies / documents / sources that meet a minimum quality standard (Gough, 2007). Each piece of evidence was assessed against the following three dimensions:

- Quality of the research methodology and reporting
- Appropriateness of the design and analysis to address the themes of the current REA
- Relevance of the study/evidence for the current REA

Each piece of evidence was then assigned an overall 'weight' (low, medium, or high) based on the scores for each dimension noted above.

The scores for each of the REA sources are listed in the table below.

**Appendix table Error! No text of specified style in document.:1 Weight of evidence score for REA sources**

Authors	Year	Overall WoE score
Ashdown, J.	2015	Medium
Barnes, L. & Malleson, K.	2011	Medium
Blackham, A.	2017a	Low
Blackham, A.	2017b	Low
Blackwell, M.	2012	Medium
Blackwell, M.	2015	Medium
Braithwaite, J. P.	2010	Medium
Delaney, E.	2016	Low
Dursi, A.	2012	Medium
Ferguson, L.	2017	Low
Gyorfi, T.	2017	Low
Iyer, S.	2013	Medium
Joly, C.	2018	Medium
Kumra, S.	2015	Medium
McKee, T., Nir, R., Alexander, J., Griffiths, E. & Hervey, T.	2018	Medium
Milburn, A.	2012	Medium
Moran, L. J.	2013	Medium
Morison, J., Dickson, B. & Godden, A	2020	Medium
Mountford-Zimdars, A. & Flood, J.	2016	Medium
Paterson, A. and Paterson, C.	2012	Low
Sommerlad, H.	2012	Medium
Sommerlad, H.	2015	Medium
Treanor, L.	2020	Medium
Vaughan, S.	2015	Medium
Ward, S., Winterfeldt, D. & Moran, L.	2012	Medium
Zimdars, A. K.	2011	High

# Appendix E

## Document summaries

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### Evidence summaries: Academic literature (REA)

Author/s	Year	Publication type/methods	Summary
Ashdown, J.	2015	<b>Review/legal opinion piece</b> A review of: <ul style="list-style-type: none"><li>• Research that the Law Society has commissioned on diversity in the legal profession (previous 20 years).</li><li>• Diversity data from the Annual Statistical Report of The Law Society's Research Unit and data the Annual Practising Certificate Holder Survey (data from 2013).</li><li>• The Law Society diversity initiatives.</li></ul>	<b>Taken/adapted from introduction, main body of article and conclusion:</b> <ul style="list-style-type: none"><li>• This article examines the accuracy of the perception that the legal profession in England and Wales is, white, male, and older. The author considers the situation from the perspective of solicitors. Within the article, the author draws on diversity data to examine the diversity profile of solicitors. Research that The Law Society has commissioned over the last twenty years to understand the professions diversity profile is also reviewed. The author discusses how the findings of The Law Society's research have impacted their policy on diversity and inclusion. Finally, the author looks at the main initiatives resulting from the research and considers whether they have made a difference to diversity within the profession and what the continuing challenges are.</li></ul> <b>Key findings:</b> <ul style="list-style-type: none"><li>• Diversity profile: data shows is that entry to the profession is increasingly diverse, but solicitors who are outside the traditional mould are finding it difficult to progress in larger firms.</li><li>• The research commissioned by The Law Society showed the extent of the barriers and challenges to diversity within the profession.</li><li>• Key diversity initiatives have centred on encouraging law firms to improve their diversity profile by providing them with support, information, and advice. Support is given to individual solicitors from under-represented groups to develop their skills at work and to network with role models. The Law Society also works with law students and school pupils to raise awareness of opportunities in the profession and offer schemes, such as The Law Society Diversity Access Scheme (DAS).</li></ul> <p>The article concludes that the initiatives and research have improved practices around diversity and inclusion.</p>

Author/s	Year	Publication type/methods	Summary
Barmes, L. and Malleson, K.	2011	<b>Review/legal opinion piece</b> An analysis/review of recent legislative interventions to increase diversity of judicial appointments, specifically focusing on the Judicial Appointments Commission and the UK/EU equality laws.	<b>Taken/adapted from the abstract, introduction and conclusion:</b> This article explores the gate-keeping role played by the legal profession in the judicial appointments process and analyses why the judiciary has been almost unaffected by recent reforms designed to increase diversity in the composition of the judiciary. The authors identify legal and institutional defects which help to explain why this has happened and considers 'soft target radicalism' (such as the creation of the Judicial Appointments Commission [JAC]) and 'regulatory bind' (which the authors argue the JAC is subject to) as two important factors inhibiting change.  The authors put forward suggestions for change in two areas. The first change required would be to regulate the legal profession to pursue structural equality and diversity goals. The second change should aim to reform equality law effectively to steer, encourage and protect organisations, including the JAC, in acting purposefully, including through the use of (EU law compliant) positive action, to counter or reverse the exclusionary effects of arrangements within the legal profession.
Blackham, A.	2017a	<b>Review/legal opinion piece; Secondary data analysis</b> of a survey of Appointments and Retirements Announcements posted on the UK Courts and Tribunals Judiciary website spanning from 01 November 2013 to 16 August 2015 (a total of 485 announcements). Over that period, announcements were made of 237 retirements, five resignations and 243 appointments.	<b>Taken/adapted from introduction:</b> This article aims to challenge the suggestion that requiring older office holders to retire may increase the frequency of judicial appointments, allowing for more diverse appointees. The author draws on statistical evidence of the composition of the judiciary, and judicial appointments and retirements, via a statistical survey of Appointments and Retirements announcements posted on the UK Courts and Tribunals Judiciary website. The author argues that while some progress on diversity is being made in judicial appointments, this progress would likely have been made without compulsory retirement ages: the vast majority of judges leave their role before reaching the retirement age. Thus, natural attrition and judicial pensions are more effective at promoting judicial turnover than compulsory retirement. The use of judicial retirement ages is, therefore, not considered to be an appropriate or sufficient means of increasing judicial diversity.
Blackham, A.	2017b	<b>Review/legal opinion piece</b> This article reviews evidence around the mandatory judicial retirement age and considers specific provisions and case law relating to judicial retirement ages.	<b>Taken/adapted from the introduction and conclusion:</b> This article explores whether judicial retirement ages are, as the law currently requires, a proportionate means of achieving legitimate aims in the UK. The implications of this for diversity within the judiciary are explored. The author considers specific provisions and case law relating to judicial retirement ages and examines the various justifications put forward for judicial retirement ages, and whether judicial retirement ages are a proportionate means of achieving these goals. In conclusion, it is found that these justifications are no longer valid in a modern democratic society, and likely fall afoul of EU law. Therefore, there is a need to consider potential alternatives to judicial retirement ages.

Author/s	Year	Publication type/methods	Summary
Blackwell, M.	2012	<p><b>Mixed methods</b> This paper uses data from a range of sources to examine diversity in the legal profession.</p> <p><b>Data sources:</b></p> <ul style="list-style-type: none"> <li>• The author created a database of all judicial appointments, retirements and promotions in the High Court, Court of Appeal and Supreme Court since 1965.</li> <li>• A similar database was compiled of all Queen's Counsel appointed since 1965.</li> <li>• Statistical information on the solicitors and barristers' profession more generally was obtained from statistics in successive editions of The Law Society Annual Statistical Report, as well as the statistics in the Bar Counsel Annual Report.</li> </ul>	<p><b>Taken/adapted from the introduction and conclusion:</b> To assess the scope for future increases in judicial diversity, the author examines diversity data from a range of sources to contrast the respective diversity of the pools of solicitors and barristers that future judges are likely to be picked from. In particular, this paper questions the continued trend to appoint High Court judges almost exclusively from Queen's Counsel.</p> <p>The evidence presented in this paper indicates that the English judiciary is still predominantly composed of men from a narrow range of educational backgrounds, often with family connections to the legal profession.</p> <p>Some limits of this research are noted. This paper has focused on diversity in the High Court and above. It has not considered tribunals and county courts, to which more solicitors have traditionally been appointed, and where we expect judges tend to be less predominantly male and from public school and Oxbridge. This paper has not used statistical analysis to examine how characteristics, such as gender and educational background, may affect access to the legal profession and progression within it as a junior lawyer. This is due to the difficulties of assembling individual level data for such a group.</p>
Blackwell, M.	2015	<p><b>Quantitative</b> Dataset (assembled by the author) of the membership of 138 barristers' chambers (otherwise known as sets) between 1981 and 2011. In total the dataset contains data relating to 11,453 different barristers; in any year the dataset contains between 47-56% of all barristers in private practice and 71- 95% of all the QCs appointed in that year.</p> <p>Analysed whether the changes to the QC appointments system introduced in 2004 improved the prospects of appointment for groups, such as women, who were disadvantaged by the previous system.</p>	<p><b>Taken/adapted from the abstract and introduction:</b> This article considers which junior barristers are appointed to the rank of Queen's Counsel (QC).</p> <p>There was a radical change to the appointments process for QCs in 2004, when an independent appointments panel was established. Prior to 2004 QCs were appointed on the advice of the Lord Chancellor after he took confidential soundings from judges and senior barristers. Criticisms of the old appointments system are discussed.</p> <p>Statistical analysis is undertaken to assess whether the changes to the QC appointments system introduced in 2004 improved the prospects of appointment for groups, such as women, that were disadvantaged by the previous system. This research shows that, post-reform, women and non-Oxbridge educated barristers continue to be less likely than other barristers in the same set and of equivalent call to become QCs under the reformed system. However, the author discusses how this may (partly) be attributable to lower rates of application, rather than unfair discrimination.</p>

Author/s	Year	Publication type/methods	Summary
Braithwaite, J. P.	2010	<b>Qualitative</b> <ul style="list-style-type: none"> <li>• Purposive sample of large law firms.</li> <li>• 17 semi-structured interviews were conducted.</li> <li>• Grounded theory used for analysis of data.</li> </ul>	<p><b>Taken/adapted from the conclusion</b></p> <p>This paper located current developments regarding diversity in large law firms within the broader debates concerning the diversity approach. The author argues that in order to appreciate the nature of the changes currently underway in large law firms, greater attention should be paid to the processes of diversity policy-making in those firms.</p> <p>Exploring the dynamics within firms via the interviews conducted, and in particular taking account of the perspective of diversity staff, shows that the many external campaigns targeted at large law firms are having some effect. However, to the extent that campaigns are limited, conflicting or unresolved, is having an impact on progress.</p> <p>The author suggests that a greater understanding of the background to the policies that have emerged to date would help to inform the ongoing debates about holding law firms accountable for diversity, and that there is a pressing need for greater clarity as to the objectives of these efforts.</p>
Delaney. E.	2016	<b>Review/legal opinion piece</b> This article presents the background to the Constitutional Reform Act (2005) and analyses the debate amongst academics and the judiciary.	<p><b>Taken/adapted from abstract:</b></p> <p>This article considers the implications of the Constitutional Reform Act (2005) in reaffirming and strengthening judicial independence within a system of parliamentary sovereignty. The author analyses the debate over judicial appointments and the constitutional justifications for diversity on the bench. Although a weak consensus was achieved in the Crime &amp; Courts Act 2013 among politicians, academics, lawyers and judges, the conclusion is that stability in the appointments' regime is likely temporary due to ongoing debates around merit and judicial impartiality.</p>
Dursi, A.	2012	<b>Review/legal opinion piece</b> This article reviews research and legal arguments surrounding social mobility and access to the Bar.	<p><b>Taken/adapted from first few paragraphs of the article and conclusion:</b></p> <p>This article looks at research and legal arguments surrounding social mobility and access to the Bar. The author considers the barriers for people from disadvantaged backgrounds and briefly outlines initiatives undertaken by the Inns of the Court to increase diversity at the point of entry to the profession.</p>

Author/s	Year	Publication type/methods	Summary
Ferguson, L.	2017	<p><b>Qualitative</b></p> <p>This article presents a case study analysis of an undergraduate Law programme at the University of Oxford.</p>	<p><b>Taken/adapted from the abstract:</b></p> <p>The author challenges the conventional problematisation of and response to insufficient socio-economic diversity in elite legal education and the legal profession.</p> <p>The author draws on a case study of an undergraduate Law programme at the University of Oxford and argues:</p> <ul style="list-style-type: none"> <li>• Commitment to “meritocracy” continues to be unjustifiably implemented via the indeterminate critical values of “potential” and “talent”, which undermines the meritocratic aim</li> <li>• Inadequacy of the educational proxies employed for socio-economic disadvantage undermine the ability of targeted responses to achieve real improvements and calls for the adoption of poverty-based proxies</li> <li>• The search for mechanisms to increase diversity proceeds on the mistaken assumption that complex problems require complex solutions, which overlooks the transformative potential of “micro-adjustments” or “nudges”.</li> </ul> <p>In conclusion, the article proposes both universal and targeted micro-adjustments, which focus on fostering a universal diversity of excellence; bringing disadvantaged students within the “community of practice” to become expert in critical learning methods and assessment criteria. This will enhance disadvantaged students’ social and cultural capital.</p>
Gyorfi, T.	2017	<p><b>Review/legal opinion piece</b></p> <p>The author reviews recent policy, statutes and debate regarding the ‘Equal Merit Principle’.</p>	<p><b>Taken/adapted from the abstract and conclusion:</b></p> <p>Through a review of recent policy, statutes and debates, this article aims to challenge the ‘Equal Merit Principle’, introduced to the judicial appointment process by the Crime and Courts Act 2013. The author argues that this principle does not take diversity seriously enough and none of its possible justifications stand up to close scrutiny.</p> <p>Within the article, the author focuses on the theoretical question of how much diversity is desirable within the judiciary. The author specifically challenges the Equal Merit Principle and argues that it does not take diversity seriously enough and none of the possible justifications of the principle stand up to close scrutiny. The author also claims that the ‘Solely on Merit Principle’ is uninformative since it fails to give sufficient guidance to those who select judges.</p>



Author/s	Year	Publication type/methods	Summary
Iyer, S.	2013	<p><b>Quantitative</b></p> <p>The author analyses complete judicial appointment data (7,500 appointments) from five different jurisdictions – England and Wales, Scotland, Northern Ireland, Australia and New Zealand – between 1999 and 2009.</p>	<p><b>Taken/adapted from the abstract:</b></p> <p>This article considers disparity in gender representation on the bench and determines whether judicial appointments commissions, recently adopted in the UK, can increase judicial diversity on Commonwealth courts. Applying the synthetic control method to cross-national comparative data, the author finds that while the appointment of women judges increased in the first year after appointment commissions were established in the UK, any increase in the gender equity of appointments vanished soon thereafter.</p> <p>The author considers a number of explanations for the research findings. However, the key implication of the results of the study is that creating appointments commissions is not enough in itself to increase diversity on the bench, even when the commission itself is diverse. It seems that appointments commissions in themselves are not the cure that politicians have sought for the lack of judicial diversity.</p>
Joly, C.	2018	<p><b>Qualitative study (PhD thesis)</b></p> <ul style="list-style-type: none"> <li>• Literature review &amp; theory development.</li> <li>• 30 semi-structured interviews with men and women lawyers working or having worked for large City law firms as well as members of the managing bodies of large City law firms.</li> <li>• Interviews were transcribed and analysed thematically.</li> </ul>	<p><b>Taken/adapted from the abstract:</b></p> <p>This qualitative empirical study explores why, when in recent years many firms have developed numerous initiatives aimed at retaining female talent and helping women progress, men working for City law firms continue to enjoy advantages in career progression. A literature review, theory development and 30 semi-structured interviews were carried out with men and women lawyers, which were analysed thematically.</p> <p>Based on a literature review and interview data with men and women lawyers, the study's main findings have strong links to the concept of 'time'. First, the study finds that time spent at work remains City firms' primary measure of success. Second, it argues that diversity programmes, often based on reduced time at work, paradoxically encourage users to do less of what firms continue to value most, invariably triggering career limitation. Third, it is posited that despite their shortcomings, women lawyers remain the main consumers of diversity initiatives due to the persistence of a domestic gendered division of labour, often leaving them with less time for the workplace than their male colleagues. Fourth, it maintains that as gendered organisations, City firms operate on the basis of this open availability, particularly in terms of their promotion process. Finally, the author queries whether the patriarchal workplace template may be disrupted by greater gender fluidity and a societal and organisational move away from stereotypical male practices and behaviour.</p>

Author/s	Year	Publication type/methods	Summary
Kumra, S.	2015	<b>Literature review/theoretical review</b> of data and literature regarding women's participation in the legal sector and law firms' responses to diversity issues and barriers.	<p><b>Taken/adapted from the introduction:</b></p> <p>This article aims to assess why diversity policies have had little impact on inclusion at senior levels of the law profession. The article is split into three parts: the first reviews the data showing women's increased participation in the legal sector and assesses why increased participation has not led to inclusion at senior levels. The author argues that the main barriers to increased inclusion are macro and micro processes of social reproduction, poor access to mentors and influential business networks, and gender bias in society at large. In the second part, the response by large law firms is assessed. Law firms' responses have largely consisted of "business case" approaches to diversity management. The key characteristics of these approaches are presented, as is an overview of key practices adopted by large law firms. In the third and final part, an assessment is made of these responses to address the issues identified in the first part.</p> <p>This article finds that the responses to address diversity issues are inadequate in scope, focus, and intention, and as such, they constitute "empty shell" approaches to equality of opportunity and diversity. The article concludes that large law firms, rather than tackle the deep-rooted and systemic factors that combine to produce discrimination, opt instead for an approach in which they are "busy doing nothing," appearing to tackle the issue, but leaving the status quo unchallenged and unchecked.</p>
McKee, T., Nir, R., Alexander, J., Griffiths, E. and Hervey, T	2018	The article outlines a university initiative to help less advantaged students navigate the barriers to a legal career.	<p><b>Taken/adapted from the abstract and main body of the article.</b></p> <p>The legal profession, in common with other professions, does not represent the diverse society it serves. In England and Wales, it is significantly more difficult to become a lawyer if you are not white, male, middle class, privately and Oxbridge educated; this is also true for other protected characteristics, such as disability, sexual orientation and age. The students we teach are fundamentally and structurally disadvantaged. This article reports on the aims and objectives of The Fairness Project, and the consequent design of its learning materials.</p> <p>The Fairness Project presents students with the realities of the barriers that they may face and works with them to construct strategies to overcome these barriers. Students work through a series of learning tasks, beginning with receiving and responding to information, proceeding through organising, evaluating and characterising that information, and culminating in personal reflection, with an invitation for further action. Each of the three law schools that participate in the project deliver the project in slightly different ways, but the core of learning, and the materials used, remain the same across all three law schools.</p>

Author/s	Year	Publication type/methods	Summary
Milburn, A.	2012	<p><b>Independent review</b> Evidence was gathered via:</p> <ul style="list-style-type: none"> <li>• <b>Desk work:</b> review of research and statistics, think tank publications and academic journals</li> <li>• <b>Call for evidence</b> issued to around 200 professional bodies and employers. More than 100 responses were submitted.</li> <li>• <b>Secondary data from the b-live survey:</b> a survey of young people, parents and their teachers regarding young people's aspirations.</li> <li>• <b>Evidence hearings</b> with major employers, professional bodies and regulatory bodies.</li> <li>• <b>Stakeholder meetings</b> with key stakeholders in the field of social mobility and access to the professions.</li> </ul>	<p><b>Taken/adapted from the introduction and summary:</b> This report provides an assessment of activity around fair access to professional careers.</p> <p>The report builds on an earlier report: 'Unleashing Aspiration' published in 2009. The 'Unleashing Aspiration' report identified six key areas for improving social mobility within the professions:</p> <ol style="list-style-type: none"> <li>1. Raising aspirations: new opportunities for young people to learn about the professions.</li> <li>2. Schools: new opportunities to learn and choose careers.</li> <li>3. Universities: new opportunities to pursue higher education.</li> <li>4. Internships: new opportunities to get onto the professional career ladder.</li> <li>5. Recruitment and selection: new opportunities for talent to shine.</li> <li>6. Flexible professions: new opportunities for career progression.</li> </ol> <p>This report examines progress on the above themes as they relate directly to the professions of law, medicine, journalism and media, Westminster and Whitehall, and government.</p> <p>Of relevance to the present REA, the independent review found that the legal sector is starting to make real efforts in addressing fair access and social mobility. In some cases, the legal sector is at the forefront of driving activity aimed at changing access to professional jobs, whether this is through co-ordinated outreach programmes or by introducing socio-economic data collection. There is, however, a lot more that needs to be done.</p>

Author/s	Year	Publication type/methods	Summary
Moran, L. J.	2013	<p><b>Quantitative</b> (descriptive statistics) Limited methodological information.</p> <p>Data obtained via an online survey. Details of the survey and how to access it were circulated via email through existing LGBTQ+ legal professional networks as well as all solicitors by The Law Society. The survey was accessible for a two-month period and generated 188 responses.</p>	<p><b>Taken/adapted from the abstract, findings and conclusion:</b></p> <p>In 2008 the Judicial Appointment Commission (JAC) for England and Wales undertook research to better understand the challenges limiting progress towards judicial diversity. A central goal of the project was to investigate barriers to application for judicial appointment across different groups defined by "sex, ethnicity and employment status". Sexual orientation was noticeable by its absence. This study is based on a response to that absence. A stakeholder organisation, InterLaw Diversity Forum for lesbian gay bisexual and transgender networks in the legal services sector, with the JAC's approval, used their questionnaire and for the first time, asked lesbian, gay, bisexual and transgender lawyers about the perceptions and experiences of barriers to judicial appointment.</p> <p>The survey results showed that there are certain similarities between the experience and expectations of InterLaw Diversity Forum survey respondents and JAC survey respondents, such as similarities in reasons given for not considering an application for judicial office. For example, both surveys found that being female, disabled, and being from a minority ethnic group were all diversity characteristics considered to present barriers to judicial appointment.</p> <p>Some limitations to the project are noted by the author, including the relatively small sample size of the survey and the lack of representation from transgender legal professionals.</p> <p>The article concludes by outlining evidence that change is beginning to happen regarding initiatives to promote judicial diversity among LGBTQ+ legal professionals and further outlines some proposals for future reforms.</p>

Author/s	Year	Publication type/methods	Summary
Morison, J., Dickson, B. and Godden, A.	2020	<p><b>Qualitative: interviews and focus group</b></p> <p>Interviews and consultations were conducted with barristers, solicitors, lawyers working in the public sector, currently serving County Court and High Court judges, and retired County Court and High Court judges. A total of 50 individuals – 31 male and 19 female – took part.</p>	<p><b>Taken/adapted from the introduction:</b></p> <p>This article examines a significant problem in the legal system of Northern Ireland – the difficulty in recruiting lawyers with the requisite skills to serve as High Court judges. The research questions aimed to find out:</p> <ul style="list-style-type: none"> <li>• What are the real and perceived barriers that may be influencing those at relatively senior levels in the legal professions (widely defined)?</li> <li>• When they are making decisions about whether to apply for a High Court position?</li> <li>• How might those barriers be overcome?</li> </ul> <p>The findings largely mirror those reached by researchers in England and Wales:</p> <ul style="list-style-type: none"> <li>• Dissatisfaction with the pay and pension associated with a High Court position plays a large role in putting off applicants who are already earning more at the Bar or as senior solicitors.</li> <li>• The nature of the High Court's role is less appealing than it was because the workload involved is more onerous than ever and the ability to work flexibly is less than in the private sector, or even in public-sector legal bodies such as the Public Prosecution Service.</li> <li>• The judicial role continues to be a lonely one, with little assistance provided for research, whereas senior lawyers often greatly enjoy operating in partnership with other lawyers.</li> <li>• The presumption continues to prevail that the applicants best suited to the High Court bench are Queen's Counsel who have spent years impressing judges already on the bench with their advocacy skills, while other attributes required for success as a judge are downplayed, a situation which might reflect unconscious bias.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Mountford-Zimdars, A. and Flood, J.	2016	<p><b>Mixed methods: quantitative and qualitative analysis; literature review</b></p> <p>Three-part empirical analysis:</p> <ol style="list-style-type: none"> <li>1. Content analysis of the biographies of the Justices of the UK Supreme Court and three top courts in Germany in order to analyse the university background of leading judges in Germany and the UK.</li> <li>2. Used data on entry to the legal Bar of England and Wales and conducted analysis of individual level data of new barristers in England (4,209 records). The data for the study was collected between 2008 and 2009 from three of the Inns of Court.</li> <li>3. Analysis of insights from an expert interview.</li> </ol>	<p><b>Taken from the abstract:</b></p> <p>The aim of this paper is to explore the relationship between legal practice and type of university attended and degree course studied for English and German lawyers.</p> <p>For England, some of the analysis is only based on data for barristers. It was found that the university attended matters a great deal for English barristers if they tend to have graduated from elite universities within the stratified British higher education system. In contrast, the flat German higher education system is also mirrored in the profile of lawyers, where graduates in the top jobs come from a wide range of institutions. For Germany, attainment at university and graduating in law are keys to unlocking elite positions whereas the status of university seems second to none in the British system, trumping having studied law as a first degree.</p> <p>The paper thus empirically confirms anecdotal insights that knowledge and skills directly related to law matters more for early career entry in Germany and generic skills and socialisation at elite universities matters more for transitioning into elite legal employment in England. It is unclear from the available data whether the different structures mean that the social make-up of the legal professions differs, but it is clear that different ways of accessing this key profession operate in the two contexts.</p>
Paterson, A. and Paterson, C.	2012	<p><b>Legal argument/literature review</b> of research and evidence relating to the judicial appointment and judicial diversity.</p>	<p><b>Taken and adapted from the executive summary and conclusion:</b></p> <p>This paper reviews the current system for senior judicial appointments. The authors argue that the current system for senior judicial appointments is not fit for purpose. The authors further contend that an appropriate process requires a rebalancing between three guiding constitutional principles for judicial appointments: independence, accountability and diversity. Establishing such a process will enhance not only the democratic legitimacy of the system as a whole but also – importantly – the authority of the judges themselves and the crucial role they perform.</p> <p>Specifically, the paper examines: the factors contributing to the expanded constitutional role of the judiciary; the current appointments process; the significant diversity deficit in the senior judiciary; how diversity also impacts directly on the substantive delivery of justice; and, international perspectives on improving judicial diversity. The paper concludes by outlining proposals to address the democratic deficit in senior judicial appointments, as well as the diversity deficit in senior judicial appointments.</p>

Author/s	Year	Publication type/methods	Summary
Sommerlad, H.	2012	<p><b>Legal argument/opinion/ literature review</b></p> <p>The author draws on existing literature and secondary data sources to present the argument that gender, race and class remain strongly determinant of career progress in the legal profession for both the US and the UK.</p>	<p><b>Taken/adapted from abstract and conclusion:</b></p> <p>The focus of this article is the effect that globalisation has had on social inequalities within large corporate professional firms, in both the United Kingdom and the United States.</p> <p>Statistical surveys and qualitative research suggest that gender, race, and class remain strongly determinant of career progress for legal professionals in both the U.S. and U.K, including in the globalised corporate sector. This article considers some of the theoretical models that might explain the persistent salience of social categories for legal careers. The author then draws on these models in a discussion of recent qualitative research conducted for the U.K. Legal Services Board (LSB).</p> <p>The author concludes that to remake one's identity as a successful legal professional in the globalised profession requires the possession of both "excellent" human capital and cultural resources. The valuation of resources, however, as representing cultural capital remains in the hands of existing power elites. For subordinated groups in general, globalisation is not generating social mobility and equality.</p>
Sommerlad, H.	2015	<p><b>Legal argument/opinion/ literature review</b></p> <p>The author draws on historical sources and data from a series of qualitative studies to explore the 'character' of merit within the English legal professions.</p>	<p><b>Taken/adapted from abstract, introduction and conclusion:</b></p> <p>This article contributes to the debate over diversity, equity, and inclusion in the legal profession by interrogating the concept of merit and exploring its functional relationship with the English legal profession. Using historical sources and data from a series of qualitative studies, this article explores how the concept of merit continues to be deployed to resist outsiders' 'usurpatory' projects. The author further argues that traditional practices of homosocial bonding through, for instance, sporting or drinking activities, and all hours work establish men's merit with other men and generally supports the naturalisation of white male authority. The author concludes that subjective, hierarchically based social bias works to reproduce the hegemony of white, upper middle-class males, while the common-sense understanding of merit as objective enables it to perform the social magic of legitimising these results of systemic privilege as justly deserved.</p>

Author/s	Year	Publication type/methods	Summary
Treanor, L.	2020	<p><b>A conceptual paper and literature review</b> of research on the professional legal landscape in Northern Ireland, the demographic make-up of the judiciary of Northern Ireland, and initiatives that designed to enhance judicial diversity in this jurisdiction.</p> <p>A critical, social constructionist feminist approach is used to explore some of the gendered barriers influencing women's under-representation in Northern Ireland's judiciary.</p>	<p><b>Taken/adapted from abstract and conclusion:</b></p> <p>This paper considers women's representation in the under-explored context of the judiciary in Northern Ireland.</p> <p>Previous research into the experiences of women practitioners in the legal profession in Northern Ireland has indicated that women are discouraged from pursuing judicial careers for a variety of reasons associated with their gender. Within this paper the author uses a critical, social constructionist feminist approach to explore some of the gendered barriers influencing women's under-representation in Northern Ireland's judiciary.</p> <p>It is contended that representation can only be improved when women's retention and progression through the ranks of the legal profession is addressed, as it is these women solicitors and barristers who form the female "talent pool" from which future members of the judiciary will be selected.</p> <p>The author concludes that further research is required into the gendered division of labour within professional legal practice and the potential implications thereof for the career progression of women legal professionals. Future research that considers women's experiences in legal professional practice will further understanding of the reasons for women's poor representation at judicial level and, importantly, the most effective means by which this issue can be addressed.</p>
Vaughan, S.	2015	<p><b>Legal argument/opinion</b> regarding the Legal Service's Board's implementation of the diversity reporting rule in 2011.</p> <p><b>Basic descriptive quantitative data</b></p> <p>The paper includes basic data from two datasets:</p> <ol style="list-style-type: none"> <li>1. Data collected for the Article in late 2010 from law firm websites (i.e., before the LSB's reporting rule had come into operation).</li> <li>2. Data collected from law firm websites for the Article in the summer of 2014 (i.e., after the rule had been in effect for three years).</li> </ol> <p>Data is presented in basic descriptive form.</p>	<p><b>Taken/adapted from article introduction:</b></p> <p>This article presents three arguments in relation to the rule requiring the collection of data on workforce diversity and the publication of that data by the legal profession, which was introduced by the Legal Services Board (LSB) in 2011. The first argument is that the LSB's rule was not necessary, as the majority of large law firms in the United Kingdom were already disclosing, without regulatory intervention into the market, some diversity data. The second is that, even if there were good grounds for the LSB's rule, it was likely to face significant challenges for several reasons. The third argument is that the operationalisation of the LSB's reporting rule is insufficient. The aggregated diversity data presented by the regulators is blunt and lacks statistical sophistication, and the regulators have done little with the data they have gathered. There has been little significant change in the behaviours of law firms with regard to the diversity make-up of their firms since the introduction of the reporting rule (at the time the article was published). However, the author notes that between 2011 and 2014, there was significant improvement in the disclosure of diversity data on the individual law firm level. In particular, the author notes improvement regarding the disclosure of data on the socio-economic background of those working in the legal sector (whereas previously the disclosures were largely focused on gender and ethnicity).</p>



Author/s	Year	Publication type/methods	Summary
Ward, S., Winterfeldt, D. and Moran, L.	2012	<b>Report</b> on the findings of a survey that collected career progression data from 1,905 lawyers and business service professionals (1,233 lawyers and 672 business services professionals).	<p><b>Taken/adapted from the introduction and top-level findings:</b> The report builds on the 2010 study of LGBTQ+ career progression and widens it to include all lawyers and business service professionals. The aim was to assess and compare the experiences of different groups in the sector to shed light on the situation of the LGBTQ+ members of the Interlaw Diversity Forum. The report presents the findings from over 1900 responses to a questionnaire obtained from across the legal sector in 2012.</p> <p>The survey findings point to three key areas of concern within the legal profession:</p> <p><b>Culture:</b> 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.</p> <p><b>Management practices:</b> 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.</p> <p><b>Social mobility:</b> In the past, this was driven by the state selective education sector but as this has shrunk, the progress of people from less privileged background to leading positions in the sector appears to have slowed.</p>
Zimdars, A. K.	2011	<p><b>Quantitative study</b> Uses data from 2,178 individuals on entry to the legal Bar of England and Wales. The data for the study referred to the time period 2000-2004. Data was obtained from three of the four Inns of Court.</p> <p>Data was administrative self-reported data regarding gender, age, ethnicity, nationality, intent to practice, as well as pupillage and tenancy information. Two of the three Inns also provided information on BVC attainment.</p>	<p><b>Taken/adapted from abstract:</b> This article examines which individual factors predict success in the competition for entry to the Bar of England and Wales. Using data from 2,178 British aspiring barristers, it finds that university attended and attainment at university and in the BVC were the strongest predictors of gaining pupillage. Ethnic minorities were initially disadvantaged in the competition for pupillages, but this became statistically insignificant when taking into account attainment and type of university. However, those aged 30 and above were still disadvantaged in securing pupillages when controlling for attainment and university. The article highlights the challenges of fair selection into a graduate-entry legal profession. Entry is reliant on the profile of graduates emerging from the prior education system whereas characteristics such as ethnicity, attainment, and university type influence opportunities.</p>

**Appendix table Error! No text of specified style in document.:2 Evidence summaries: Landscape review**

Author/s	Year	Publication type/methods	Summary
Accent	2013	<p><b>Quantitative report</b>  <b>Sample:</b> solicitors, barristers and Chartered Legal Executives (CILEX) (n=4,051)  <b>Data source:</b> Primary data; online questionnaire</p> <p><b>Additional details:</b></p> <ul style="list-style-type: none"> <li>• Questionnaire was sent by email to participants.</li> <li>• Survey only sent to those with at least five years of post-qualification experience (the minimum entry requirement for any judicial office)</li> <li>• The overall response rate was 7% of those who received the questionnaire (n = 4,051)</li> <li>• The final data was weighted to match key characteristics of the entire population of solicitors, barristers and Chartered Legal Executives.</li> </ul>	<p><b>Taken/adapted from the executive summary:</b>  The Judicial Appointments Commission (JAC) undertook research with The Law Society and General Council of the Bar in 2008 to identify the barriers to application to judicial office. Accent was commissioned to update and refresh this research, as part of the JAC's continuing objective to encourage diversity in the range of people available for selection to judicial office.</p> <p><b>Barriers to judicial appointment (survey results) included (but were not limited to):</b></p> <ul style="list-style-type: none"> <li>• <b>Unappealing aspects of judicial role:</b> Isolated nature of role, reduction in earnings (especially for men), and judicial establishment/culture seen as unappealing by 40% overall (and by 21% of BAME respondents). Less than half (43%) see being a judge as part of their career path (an improvement on 2008 when the corresponding proportion was 28%).</li> <li>• <b>Fear of failure:</b> This is a strong deterrent to applying; 45% would not apply unless they knew they would be successful. BAME respondents are twice as likely as white respondents to agree strongly that this is the case.</li> <li>• <b>Fairness of the selection process:</b> There are some concerns about the fairness of the selection process. While a majority of those surveyed believe the selection process to be fair (64%) and believe that judges are selected on merit (61%), a significant minority either disagree or do not know whether this is the case. There was no notable difference between LGBTQ+ and straight respondents.</li> <li>• <b>Bias:</b> All groups believe the system is biased against them with 75% believing overall that it is more difficult for certain types of people to apply successfully for judicial office. 52% of BAME and 56% of disabled respondents agreeing strongly that this is the case. Over two in five (46%) would go so far as to say there is prejudice within the judicial selection process.</li> </ul> <p>The factors which were felt to have the strongest positive influence on the outcome of an application to judicial office were:</p> <ul style="list-style-type: none"> <li>• Being a barrister</li> <li>• Having higher court experience</li> <li>• Having a degree</li> <li>• Having been to Oxbridge.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Bar Standards Board	2020	<b>Summary report</b> of diversity data for the Bar captured in December 2019.	<p><b>Taken/adapted from executive summary and conclusion:</b></p> <p>This report presents a summary of the latest available diversity data for the Bar. The report assists the Bar Standards Board (BSB) in meeting its statutory duties under the Equality Act 2010 and sets out an evidence base from which relevant and targeted policy can be developed.</p> <p>It is concluded that compared with 2018, there has been no substantial change in the reported profile of the Bar in 2019. Some of the other key findings are also outlined:</p> <ul style="list-style-type: none"> <li>• Both gender and BAME representation at the Bar continue to move towards better reflecting the demographics of the UK population, with a continued increase in the proportion of female and BAME barristers at QC level and overall across the Bar, and the greatest proportion of BAME pupils seen since they commenced reporting in 2015.</li> <li>• A greater proportion of Asian/Asian British practitioners at the Bar compared to the proportion of Asian/Asian British individuals in the UK working age population, which was the same for those from Mixed/Multiple ethnic backgrounds.</li> <li>• There may be a lower proportion of disabled practitioners at the Bar in comparison to the UK working age population, and the proportion of those with a declared disability appears to differ by level of seniority, although the response rate (at 53.7%) is too low to draw reliable conclusions.</li> <li>• The percentage of those at the Bar who provide primary care for one or more children appears to be lower than that seen for the UK working age economically active population; and the percentage of those at the Bar who provide care for another appears to be around that seen for workers across the UK.</li> </ul>

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Bindman, G. and Monaghan, K.	2014	Report / review of reports and academic studies on judicial diversity.	<p><b>Taken/adapted from the executive summary and introduction:</b></p> <p>The aim of this report was to suggest what a future Labour Government could do to ensure judges better reflect wider society.</p> <p>The report considers what practicable steps Labour could take to speed up moves to a more diverse judiciary in the short, medium and long term.</p> <p><b>Key findings included:</b></p> <ul style="list-style-type: none"> <li>• Efforts to increase diversity have resulted in very limited success. The assumption that the problem will solve itself as the more diverse younger generations of lawyers rise higher in their profession is put in doubt by the statistical evidence in this report.</li> <li>• The concept of 'merit' is ill-defined. The Constitutional Reform Act 2005, which established the JAC, requires the JAC to ensure that appointment to the judiciary is 'solely on merit.' At the same time, it 'must have regard to the need to encourage diversity in the range of persons available for selection for appointments.'</li> <li>• The report identifies a number of barriers faced by potential candidates, which adversely affect under-represented groups, and which should be removed or modified. Among these are: the lack of flexibility in relation to part-time appointments, the obligation to go on circuit, and obstacles to returning to practice for those who leave the judiciary. They also draw attention to the culture of exclusivity which stereotypes the judge as a white male barrister, educated at a public school and Oxbridge.</li> <li>• In addition to addressing these barriers, the pool from which judges are drawn needs to be opened up to more solicitors, academics, lawyers in the public sector, and legal executives.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Foster, D. and Hirst, N.	2020	<p><b>Mixed methods report</b></p> <p><b>Qualitative</b>  <b>Sample:</b> Disabled people in the legal profession in England and Wales. Interviewees included paralegals, solicitors, barristers, judges, trainees and those who had entered training but had not secured subsequent employment  <b>Data:</b> Primary data; eight focus groups and 55 semi-structured interviews. Data analysed/presented thematically.</p> <p><b>Quantitative</b>  <b>Sample:</b> The Law Society, the Bar Council, Regulators, Lawcare and the Research Reference Group helped distribute surveys to participants. 288 completed responses were returned; of which 241 were from solicitors or paralegals and 47 were from barristers.  <b>Data:</b> Primary data; two surveys: one survey given to paralegals and solicitors; one survey for barristers. Basic descriptive statistics are presented.</p>	<p><b>Details taken/adapted from the executive summary</b>  Limited research has been conducted on disabled people in professional occupations generally, let alone law. The overriding aim of this research was to 'give a voice' to disabled people working in the legal profession in England and Wales.</p> <p><b>Key findings included:</b>  Securing training and employment - the application and recruitment process:</p> <ul style="list-style-type: none"> <li>• Those who identified as disabled/having a long-term medical condition at the point of application were most disadvantaged when applying for training or employment. A significant majority of the disabled legal professionals surveyed had not disclosed their disability when applying for training or employment.</li> <li>• Limited opportunities to request basic reasonable adjustments at application and recruitment stages were cited as key obstacles. Few participants were willing to initiate requests for reasonable adjustments for fear of discrimination.</li> <li>• 60% of solicitors/paralegals and 50% of barristers expressed concern that inaccessible working environments limited their opportunities.</li> </ul> <p>Career paths and progression:</p> <ul style="list-style-type: none"> <li>• Career paths in the legal profession can be more precarious and unpredictable for disabled people due to accessibility challenges, location of premises, rigid working practices, health-related career interruptions, expectations of physical networking, unwillingness of employers to facilitate adjustments.</li> </ul> <p>Disability &amp; working practices:</p> <ul style="list-style-type: none"> <li>• In the survey of solicitors and paralegals, 85% reported pain and fatigue associated with their disability. Therefore, managing unpredictable working hours, in different locations, or being expected to work at short notice can be difficult.</li> </ul> <p>The role of key personnel and workplace adjustments:</p> <ul style="list-style-type: none"> <li>• There was a general feeling that HR had paid less attention to disability in their D&amp;I portfolio and targeted initiatives were less well developed.</li> </ul> <p>Ill-treatment, bullying and discrimination:</p> <ul style="list-style-type: none"> <li>• The survey of solicitors and paralegals found 60% had experienced ill-treatment in the workplace and of these 80% believed it was related to disability. Among barristers 45% reported having experienced ill-treatment and 71% of these believed this was related to disability.</li> </ul>

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House of Lords	2017	<b>Overview paper</b> <b>Data source:</b> Secondary analysis of reports, documents, and official data on the judiciary, including the attractiveness of a judicial career, judicial appointments/recruitment, and judicial diversity.	<b>Taken/adapted from summary:</b> In this follow-up report to their 2012 report on judicial appointments, the House of Lords Select Committee draw attention to three broad themes: the reduced attractiveness of judicial office, its impact on recruitment, and continuing concerns about the lack of diversity in the judiciary.  The committee examined a number of factors including judicial salaries, pensions, working conditions, court infrastructure and administration, as well as the constitutional responsibility of the Lord Chancellor to uphold the independence of the judiciary. They considered opportunities to improve diversity, and to increase the number of potential recruits to the judiciary, by addressing issues that restrict applications from solicitors, legal executives and lawyers currently employed by the government and the Crown Prosecution Service.  Regarding barriers to judicial appointment, the committee found that women remained under-represented in judicial positions, particularly at higher levels.
Judicial Appointments Commission	2020a	<b>Progress review</b> <b>Additional details:</b> Annual performance report.	<b>Taken/adapted from the introduction and overall report:</b> This report is a review of the Judicial Appointments Commission's (JAC) progress towards its strategic goals, including the need to have regard to the need to encourage diversity in the range of people available for selection.  The report outlines the achievement of the JAC against its aims: <ul style="list-style-type: none"> <li>• <b>Flexibly support the evolving business need</b>, which is demonstrated namely through the measure of delivering the selection programme as agreed with business partners.</li> <li>• <b>Increase confidence in the selection process and selections</b>, which is demonstrated through the recommendation of a majority of candidates assessed overall as strong or outstanding and ensuring that the JAC selects the very best on merit, regardless of their background. The JAC also continues to review and improve the selection processes, which was undertaken in 2018.</li> <li>• <b>Promote and encourage diversity throughout the selection process</b>, which is measured by candidates from under-represented groups progressing through selection exercises and overall are recommended in the same or higher proportions as their level in the eligible pool, in addition to carrying out activities involving targeted advertising and outreach to attract a diverse range of candidates to apply. This is also achieved through the steps taken to ensure that selection processes are fair and open such as training for JAC panel members on fair selection and unconscious bias, among other actions.</li> </ul> Other aims and relevant actions outlined include: continually improving the candidate experience; making the JAC a centre of excellence in selection and being digital in default.  The report then summarises JAC's plans for the future and what these will entail.

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Judicial Appointments Commission	2020b	<p><b>Progress update</b></p> <p><b>Additional details:</b> The report outlines recent activities and initiatives undertaken by the JAC to achieve increased judicial diversity; diversity statistics are presented.</p>	<p><b>Summary of the article:</b> The document reports the progress made by the Judicial Appointments Commission (JAC) towards fulfilling their statutory duty under the Constitutional Reform Act (2005) to have regard to the need to encourage diversity in the range of persons available for judicial selection.</p> <p>The JAC has identified four target groups of people whom data shows are under-represented in the judiciary: women, black and minority ethnic (BAME) people, disabled people and solicitors. However, all protected characteristics, as defined in the Equality Act 2010, are considered when carrying out equality measures. The report outlines recent activities and initiatives undertaken by the JAC to achieve increased diversity in judiciary.</p> <p>Basic diversity statistics are reported and provide evidence of progress towards improved judicial diversity.</p>
Judicial Diversity Forum	2020	<p><b>Diversity action plan</b></p>	<p><b>Taken/adapted from the introduction:</b> This action plan sets out the wide range of activities which members of the Judicial Diversity Forum are undertaking to support and drive greater judicial diversity. Where possible, it follows a career path from a diverse pool of professionals, through attracting and supporting candidates for judicial office, open and fair application processes to supporting and encouraging retention and progression to the senior levels of the judiciary.</p>
The Judicial Diversity Taskforce	2015	<p><b>Progress review</b></p> <p><b>Data source:</b> descriptive statistics of the diversity profile of employees across the legal sector and reviews the relevant legal / academic literature.</p>	<p><b>Taken/adapted from the introduction:</b> This report reviews progress towards diversity in judicial appointments, as per recommendations made by the Judicial Advisory Panel.</p> <p>The report shows that the Taskforce (now the Judicial Diversity Forum) have refined the selection and recommendation process for judicial appointments, are continuing to improve data collection and management to develop systems to monitor and evaluate progress. They are also continuing work to encourage new entrants to the judiciary, developing mentoring and appraisal schemes, modernising judicial culture, and updating terms and conditions of appointment.</p>

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Judiciary of England and Wales	2017	<p><b>Overview of judicial diversity activities over the previous 12 months</b></p> <p><b>Data source:</b> Secondary data</p>	<p><b>Taken/adapted from the report:</b></p> <p>This report identified information on the Judicial Diversity Committee's progress report for the previous 12 months and their diversity action plan.</p> <p>The report provided information on various diversity schemes, including:</p> <ul style="list-style-type: none"> <li>• <b>The Judicial Work Shadowing Scheme (JWSS)</b> - provides the opportunity for qualified legal practitioners who are considering applying for their first judicial appointment and judges wishing to move up the judicial ladder to spend up to three days observing the work of judges in the courts in England and Wales and the tribunals in the UK.</li> <li>• <b>Judicial Role Models</b> - aims to use the pool of Judicial Role Model Judges to inspire and encourage under-represented groups to apply for a judicial appointment through outreach events.</li> <li>• <b>Positive Action Judicial Mentoring Scheme and application workshop</b> - supports women, BAME lawyers and lawyers who can demonstrate social mobility to apply for their first judicial appointment and judges to progress to higher office.</li> <li>• <b>Dedicated Support Programmes</b> - JAC launched programmes to support candidates intending to apply for the High Court Judge and Deputy High Court Judge selection exercises. The programmes are for to women, BAME and those who could demonstrate social mobility.</li> </ul>
Judiciary of England and Wales	2019a	<p><b>Judicial Diversity Committee of the Judges' Council annual progress report</b> providing an update of the committee's activities in the previous financial year, progress of ongoing initiatives, and any new initiatives that have been implemented. The Committee's plan for the financial year of April 2019 to March 2020 is also outlined.</p>	<p><b>Summary of the article:</b></p> <p>This report provides an overview of the progress of the Judicial Diversity Committee in working towards a diverse judiciary for the financial year April 2018 to March 2019.</p> <p>The report outlines:</p> <ul style="list-style-type: none"> <li>• <b>The Committee's activities from April 2018 - March 2019:</b> details on events and initiatives around education, attracting new talent, supporting career progression, mentoring, and evaluation of these initiatives.</li> <li>• <b>Judicial Work Shadowing Scheme:</b> what the scheme aimed to achieve, and the number of applications received.</li> <li>• <b>Judicial Mentoring Scheme:</b> including what the scheme aimed to achieve and the number of applications received.</li> <li>• <b>Diversity and Community Relations Judges (DCRJ):</b> update on progress and the annual DCRJ event.</li> <li>• <b>The Lord Chief of Justice's Schools' Initiative</b></li> <li>• Other work being done by the judiciary on enhancing diversity.</li> <li>• The committee's plan for April 2019 - March 2020.</li> </ul>



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Judiciary of England and Wales	2019b	<p><b>Overview bulletin of statistics in the judicial diversity</b>  <b>data source:</b> Primary and secondary data.</p>	<p><b>Taken/adapted from introduction pages:</b>  This bulletin provides an overview of the diversity of appointed judges in the courts and tribunals, non-legal members of tribunals, and magistrates.</p> <p><b>Key findings were that in 2019:</b></p> <ul style="list-style-type: none"> <li>• 32% of court judges and 46% of tribunal judges were women.</li> <li>• 7% of court judges, 11% of tribunal judges and 17% of non-legal members of tribunals were BAME.</li> <li>• In 2019 33% of court judges and 63% of tribunal judges were from non-barrister backgrounds.</li> <li>• There was considerable regional variation in gender and ethnic diversity in courts.</li> <li>• More than half of magistrates were women (56%)</li> <li>• The percentage of women court judges was highest in the South East (41%) and lowest in the South West (24%).</li> <li>• London and the Midlands had the highest representation of BAME court judges (10% and 9% respectively). The lowest representation of BAME was in Wales (3%).</li> </ul>
JUSTICE	2020	<p><b>Mixed methods</b></p> <p><b>Quantitative</b>  <b>Data source:</b> Secondary data; overview of official statistics and reports</p> <p><b>Qualitative</b>  <b>Sample:</b> Individuals and organisations, including the JAC, Judicial Office, the professional regulators (SRA and BSB), professional organisations (The Law Society and the Bar Council), members of the judiciary and the legal profession, academics, and others (n=over 50)  <b>Data source:</b> Primary data; interviews and correspondence with participants.</p>	<p><b>Taken/adapted from executive summary:</b>  This report focused on the diversity of the senior courts in England and Wales (namely the Circuit Bench, High Court and Court of Appeal) and the UK Supreme Court. It looked at the appointment of women, black, Asian and Minority Ethnic (BAME) candidates, non-barrister candidates and those from a lower socioeconomic background. In addition, the report also considered disability and sexual orientation and gender identity.</p> <p><b>Key findings:</b></p> <ul style="list-style-type: none"> <li>• Gender has seen the most positive developments over the last two years, with noticeable gains in the proportion of women at the Circuit bench in particular.</li> <li>• There had been a stagnation in the appointment of BAME judges.</li> <li>• Solicitors continue to apply for senior judicial office in much lower numbers than their proportion of the estimated eligible pool and their relative success rates compared with barristers remain poor.</li> <li>• The judiciary continued to be largely comprised of those from a higher socioeconomic background. This was due to a relative lack of applications from individuals from lower socioeconomic backgrounds.</li> <li>• There was a lack of quantitative data on disability in the senior judiciary.</li> <li>• LGBTQ+ candidates applying for judicial office stood an equal chance of appointment.</li> </ul>

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Kotecha, M., Chidley, S., Hudson, R. and Husain, F.	2017	<p><b>Qualitative report</b></p> <p><b>Sample:</b></p> <ul style="list-style-type: none"> <li>• Strand 1 - 25 interviews with BPTC students (2015/16 cohort), with a particular focus on BAME groups and a mixture of genders</li> <li>• Strand 2 - 25 interviews with pupillage applicants (2013/14 cohort), with participant selection based on pupillage application outcomes (successful/unsuccessful) and lower socio-economic groups.</li> </ul> <p><b>Data source:</b> Primary data; in-depth interviews.</p>	<p><b>Taken/adapted from the introduction:</b></p> <p>The Bar Standards Board (BSB) identified a lack of diversity in the legal profession and discriminatory working culture and practices as key risks in its 2016 Risk Outlook. As part of their programme of reform on training for the Bar, the BSB commissioned NatCen Social Research to explore the barriers to participation and success in the vocational and work-based learning stages of training for the Bar, and to identify changes that will encourage and support a more diverse and inclusive Bar. The study particularly focused on women, BAME students and those from lower socioeconomic groups.</p> <p><b>Key findings</b></p> <p>Overarching barriers:</p> <ul style="list-style-type: none"> <li>• <b>Perceived culture:</b> there was a perception that the organisational culture in chambers influenced the pupillage application and selection process helping to maintain the profession as the domain of white male privilege, among other cultural factors.</li> <li>• <b>Institutional/structural reinforcement of barriers:</b> the biggest challenge to creating a 'level playing field' is not about the structure of the education and training pathway or the exclusivity of the Bar but more about the individuals who maintain the elite nature of these structures – at secondary schools, universities, provider institutions, Inns of Court, and chambers, and especially those who, through conscious or sub-conscious negative attitudes, introduce and embed biases into the system.</li> </ul> <p>Suggested actions to reduce barriers included:</p> <ul style="list-style-type: none"> <li>• Bar Training suggestions: providing information to manage expectations, introduce financing options, and developing social networks.</li> <li>• The Inns of Court suggestions: provide information about the Inns of Court, enhancing the Inns of Court support offer.</li> </ul>

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Ministry of Justice	2012a	<p><b>Equality Impact Assessment Government Response</b></p> <p><b>Data source:</b> Primary (stakeholder consultation data)</p> <p><b>Sample:</b> included members of the judiciary, academics, members of the public, and legal professions (n = 96)</p> <p><b>Additional evidence:</b> further sources of evidence included research and statistical evidence.</p>	<p><b>Taken/adapted from the introduction and summary:</b></p> <p>This EIA was produced in support of the Government Response to a recent consultation and reflects proposals that undertaken following the consultation. These policy proposals concern a number of measures to improve the end-to-end process for selecting and appointing members of the judiciary.</p> <p>The following proposals are anticipated to explicitly deliver positive outcomes for those with protected characteristics, or to increase the transparency of the process:</p> <p><b>Advancing equality of opportunity</b></p> <ul style="list-style-type: none"> <li>• <b>Remove barriers to salaried part-time working in the High Court and above (including the UK Supreme Court)</b> - this change may lead to an increase in applications for High Court office from under-represented groups.</li> <li>• <b>Enabling the JAC to use positive action provisions</b> - enabling the use of Equality Act 2010 'tipping point' principles would retain the fundamental principle that judicial appointments should always be made on merit</li> <li>• <b>Increased JAC involvement in the selection and appointment of judges under section 9 of the Senior Courts Act 1981</b> - it is expected that increased JAC involvement in the appointment process for temporary deputy judges of the High Court and in the selection process to make requests to Circuit judges or Recorders to sit in the High Court will improve confidence in the process and will increase transparency in these appointments.</li> </ul>
Ministry of Justice	2012b	<p><b>Government response to the public consultation</b> (see Ministry of Justice, 2012a).</p>	<p><b>Taken/adapted from the introduction:</b></p> <p>The consultation paper set out proposals for amending the statutory and regulatory frameworks for judicial appointments and invited comments. The consultation also requested views on a number of recommendations that arose from the report of the Advisory Panel on Judicial Diversity, which the Government publicly committed to implement.</p> <p>Response to the public consultation as part of the Equality Impact Assessment: MoJ propose to take forward a number of the proposals, and these will be included within the Crime and Courts bill. The proposals being taken forward include: the introduction of part-time working to the High Court, Court of Appeal and the UK Supreme Court, as well as provisions that will enable the application of the positive action provisions to judicial appointments. These proposals will not undermine the principle that all appointments will be made on merit. The overall effect of these changes will be to achieve the proper balance between executive, judicial and independent responsibilities; improve clarity, transparency and openness; create a more diverse judiciary that is reflective of society; and deliver speed and quality of service to applicants, the courts and tribunals and value for money to the taxpayer. The MoJ's aim is to allow the judiciary to evolve into a modern, outward-facing institution that is fit for the 21st century and beyond.</p>

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Ministry of Justice	2015	<p><b>Triennial review</b> A triennial review undertaken by the Ministry of Justice to determine whether the Judicial Appointments Commission (JAC) is effectively delivering its function of increasing the diversity of the judiciary.</p> <p>Evidence was obtained from eight responses to a call for evidence (published as a public consultation) and the findings of other reviews examining the JAC.</p>	<p><b>Taken/adapted from the executive summary:</b> This review considers the constitutional importance of an independent appointments process and the current model of delivery through the Judicial Appointments Commission (JAC). In particular, this review finds that the JAC plays an important role in upholding the rule of law, through the fair appointment of the most meritorious candidates to judicial posts, and should continue to deliver its function independently of the Executive, and the Judiciary. It also finds that the JAC has strong corporate governance and accountability which has allowed it to both dramatically improve its performance and efficiency and foster a mature and appropriate relationship with the MoJ as its sponsoring department.</p>
Ministry of Justice	2017	<p><b>Government response</b> to the consultation paper <i>Modernising Judicial Terms &amp; Conditions</i>, produced by the Ministry of Justice.</p> <p>The consultation received more than 400 responses. The majority of responses were from existing fee-paid judges, but responses were also received from associations representing salaried judges; from bodies representing the legal professions, such as The Law Society, the Bar Council, Chartered Institute of Legal Executives; and from the Judicial Appointments Commission.</p>	<p><b>Taken/adapted from 'background' section:</b> This document is the Government response to the consultation paper: Modernising Judicial Terms &amp; Conditions, which was open for comment from 15 September to 1 December 2016.</p> <p>The focus of the consultation was to gather views on the following areas of potential reform:</p> <ul style="list-style-type: none"> <li>• Introducing a single fixed term for fee-paid judges</li> <li>• Introducing the ability to recruit to leadership positions for a fixed term, with accompanying temporary remuneration</li> <li>• Introducing an expectation – rather than guarantee – of the number of days existing fee-paid court judges are required to sit</li> <li>• Removing the entitlement of existing fee-paid judges to claim travel expenses for journeys to their primary courts</li> <li>• Introducing a requirement for existing salaried and fee-paid judges to provide notice of intention to resign or retire.</li> </ul> <p>The document sets out:</p> <ul style="list-style-type: none"> <li>• The background to the consultation</li> <li>• The Government's response</li> <li>• A summary of responses to the consultation.</li> </ul>

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Ministry of Justice	2020	<p><b>Statistical report</b> based on data covering around 16,900 barristers, 148,300 solicitors and 8,100 Chartered Legal Executives, 37 selection exercises run by the Judicial Appointments Commission (JAC) in 2019-20 (with 8,258 applicants and 959 recommendations for legal and non-legal roles) and 3,174 court judges and 1,826 tribunal judges in post as at 1 April 2020.</p>	<p><b>Taken/adapted from Statistician's Comment and Main Points section:</b> The report outlines statistics which present the latest data (2019-2020) on diversity for current judicial office holders, for judicial selection and within the legal professions which provide the eligible pool of candidates for most judicial roles.</p> <p><b>Top-level findings include:</b></p> <ul style="list-style-type: none"> <li>• Women are less well represented among the more experienced and more senior members of the legal professions.</li> <li>• Overall, there is no evidence of disparity for women for judicial selection exercises in 2019-20.</li> <li>• Women remain under-represented in the judiciary, particularly in courts.</li> <li>• BAME representation is lower for more experienced members of the legal professions.</li> <li>• BAME individuals are over-represented in applications for judicial appointment, but less likely to be successful.</li> <li>• The proportion of BAME individuals in the judiciary has increased but remains lower in senior court roles.</li> <li>• Representation of solicitors falls throughout the judicial selection process.</li> <li>• Most court judges have a background as a barrister.</li> <li>• Most judges are aged 50 or over.</li> </ul>
Solicitors Regulation Authority	2017	<p><b>Mixed methods report</b> The research was undertaken in 2 stages:</p> <ul style="list-style-type: none"> <li>• <b>Stage one:</b> Initial questionnaire sent to 70 firms identified as showing exceptional diversity profiles for female and BAME solicitors and engagement with various interest groups, through face to face meetings, telephone conversations, and attendance at events to promote the project.</li> <li>• <b>Stage two:</b> In-depth interviews with representatives and an employee of the 32 firms identified at stage one.</li> </ul>	<p><b>Taken/adapted from executive summary:</b> The aims of this report were:</p> <ul style="list-style-type: none"> <li>• To understand the barriers and issues faced by female and BAME solicitors in the development of their careers.</li> <li>• To understand what is being done, and what can be done, to improve the representation of female and black, Asian and minority ethnic (BAME) solicitors in senior roles such as partners or directors.</li> </ul> <p><b>Key findings:</b></p> <ul style="list-style-type: none"> <li>• The report found that men are more likely to be working in a higher paid role in a larger firm and are more likely to be a partner/manager.</li> <li>• There is an under-representation of BAME individuals in larger firms including at partner/manager level.</li> <li>• Although real changes have been made over the last ten years with increasing numbers of female and BAME solicitors entering the profession, there is some concern that firms are not benefiting from the recruitment and retention of the most talented individuals, irrespective of their gender and ethnicity. This has an adverse financial and cultural impact on firms.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Solicitors Regulation Authority	2020	<p><b>Report of diversity data</b> collected in 2019, including data from 96% of law firms, representing information from more than 186,000 people working in over 9,500 firms. Data is collected from staff using a standard set of diversity questions.</p>	<p><b>Taken/adapted from report:</b> The report presents data collected from 96% of law firms using a standard set of diversity questions.</p> <p><b>Some key findings include:</b></p> <ul style="list-style-type: none"> <li>• <b>Age:</b> there is little change in the age profile of all lawyers (solicitors and partners) since 2017: 31% are aged 25-34; 29% are aged 34-44; 22% are aged 45-54; 13% are aged 55-64; and 5% are over 65.</li> <li>• <b>Gender:</b> Women make up 49% of lawyers in law firms, up by 1% since 2017.</li> <li>• <b>Transgender:</b> 2% of solicitors, 1% of partners and 2% of other staff reported that their gender identity was different to that assigned to them at birth (this is 1% overall for lawyers).</li> <li>• <b>Ethnicity:</b> The proportion of black, Asian and minority ethnic (BAME) lawyers working in law firms is 21%. In 2018, Government figures on employment showed that 13% of the workforce in England, Scotland and Wales were BAME.</li> <li>• <b>Disability:</b> The proportion of people declaring a disability working in law firms (4%) is lower than the wide population, where disabled people make up 13% of the workforce in the UK.</li> <li>• <b>Sexual orientation:</b> A greater proportion of lawyers identify as lesbian, gay or bisexual (LGB) in law firms (3%) compared to the UK population in 2017 (2%). There has been no change for lawyers since 2014.</li> <li>• <b>Religion and belief:</b> Christians form the largest proportion of lawyers at 49%. The second largest group are formed by those who have no religion or belief (30%).</li> <li>• <b>Social mobility:</b> 21% of lawyers attended fee paying schools – significantly more than the general population.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Sommerlad, H., Webley, L., Duff, L, Muzio, D. and Tomlinson, J.	2010	<p><b>Qualitative study</b></p> <p><b>Data source:</b> Primary data: interviews</p> <p><b>Sample:</b> Current, former or aspirational (law students, law graduates, LPC graduates, solicitors or barristers) as well as a very small group of other legal professionals, which included those who work as a paralegal or legal executive (n = 77)</p> <p><b>Additional details:</b> Data analysed thematically.</p>	<p><b>Taken/adapted from the background section:</b></p> <p>The Legal Services Board (LSB) commissioned a qualitative study of female and BAME legal professionals, at a variety of career stages including pre-entry, in a range of specialisms and sectors, and in several locations, to investigate the reasons for these practitioners' career patterns.</p> <p>In order to explore the reasons for respondents' career choices, and the extent to which they were the product of the profession's culture, structure and institutions, the authors interviewed seventy-seven lawyers, would-be lawyers and former lawyers along with five diversity managers and an additional non-lawyer and non-diversity manager stakeholder.</p> <p>The main themes revealed by the data analysis focus on the fragmentation of the profession and consequent nuanced nature of respondents' experiences; the legacy of the profession's white, male elitist origins and the significance of cultural stereotypes; the importance for career success of personal relations/ bonding and socialising; the long hours culture and emphasis on commitment (rarely defined); the lack of transparency of some key procedures and practices in some organisations.</p>

Author/s	Year	Publication type/methods	Summary
Sullivan, R.	2010	<b>Literature review:</b> review of research relating to barriers to access and progression within the legal sector.	<p><b>Taken/adapted from introduction and conclusion</b></p> <p>The author reviews existing research on barriers to access and progression for under-represented groups to help the Legal Services Board (LSB) identify future policy options to increase diversity in the legal profession.</p> <p>The article highlighted several barriers to access and progression within the legal sector:</p> <ul style="list-style-type: none"> <li>• Entering the profession remains difficult and expensive. Individuals from lower socio-economic groups face financial barriers as the training stages to the profession are costly.</li> <li>• At each stage of the process of entry and progression, those from higher socio-economic backgrounds are at an advantage: attending a more academic school followed by a Russell Group university - which supply individuals with the knowledge of and contact with law firms; gaining work experience, often through contacts; and having similar social attributes to those in the profession, making them more appealing to firms.</li> <li>• The culture of the profession prevents women and ethnic minorities from progressing in the market due to the great emphasis placed on networking. Women and ethnic minorities often do not attend events due to their different cultural values, family commitments or reluctance due to the expectation for females to establish a demeaning role.</li> <li>• Females from all social backgrounds face further obstacles to progression due to the lack of perceived flexibility, preventing them from meeting family commitments and possibly restricting their progression to partnership.</li> </ul> <p>The author concludes that although addressing each barrier to the profession may be of some benefit, individuals susceptible to inequality need to be aided through each stage of entry and progression to the profession to overcome the obstacles presented.</p>



Author/s	Year	Publication type/methods	Summary
The Bar Council	2013	<b>Annual report:</b> annual report of activities and objectives of the Bar Council in 2012/13.	<p><b>Taken/adapted from report:</b>  This report is the Bar Council's second annual report on representation. The report provides details of the activities which the Bar Council has undertaken on behalf of the Bar, for the benefit of the profession and in the wider public interest, from 1 April 2012 to 31 March 2013, as well as work which began during the reporting period. In this report, the Bar Council also set out their key strategic aims and objectives and report on their progress in achieving these objectives.</p> <p>Of relevance to the REA, one key objective of the Bar Council is to encourage access to, and diversity within, the profession, so that it is open to all of ability, regardless of their background. Activities to promote diversity include:</p> <p>The Bar Council's Social Mobility Committee (SMC), which aims to develop further initiatives to widen access to the profession, and contribute to government and regulatory policy in the area of social mobility</p> <p>To encourage access to the profession, the Bar Council has co-ordinated or been involved in:</p> <ul style="list-style-type: none"> <li>• The Bar Placement Week in London, run in conjunction with the Social Mobility Foundation, which provides training and shadowing in chambers for high-achieving sixth formers from less advantaged backgrounds.</li> <li>• The Government's Business Compact on Social Mobility</li> <li>• The Professions for Good (P4G) Social Mobility Toolkit</li> <li>• The Legal Education and Training Review sub-committee for equality, diversity and social mobility.</li> </ul> <p>In seeking to improve diversity of the Bar as a whole, the Bar Council's Equality and Diversity Committee has also organised seminars/conferences, and launched the Fair Recruitment Guide to assist chambers in achieving best practice and fairness in recruitment and selection at the Bar and to help them meet the BSB's Code of Conduct Rules.</p>

Author/s	Year	Publication type/methods	Summary
The Law Society	2016	<p><b>Fair recruitment toolkit</b></p> <p><b>Data source:</b> Includes secondary data</p>	<p><b>Taken/adapted from toolkit content:</b></p> <p>This toolkit highlighted fair recruitment practices to eliminate the barriers people face in employment due to their social background e.g. unconscious biases.</p> <p>This toolkit was designed for partners, human resources professionals, and anyone involved with the management of a law firm and the trainee recruitment process.</p> <p><b>Toolkit content (related to best recruitment practices)</b></p> <p>Blind recruitment refers to the practice of removing information from applications which may suggest personal characteristics of the applicant. The main strength of blind recruitment is at application stage - personal information is supplied on a separate page, which is then separated from the rest of the application when being considered for shortlisting.</p> <p>Contextual recruitment is a process which allows you to assess candidates' academic and other achievements in the context of their social background. The aim of contextual recruitment is to identify or 'flag' candidates who are from less advantaged social backgrounds in order to understand which candidates might benefit from adjustments in the recruitment process (e.g. reduced A-level requirements for particular students).</p>
The Law Society	2017	<p><b>Quantitative report</b></p> <p><b>Sample:</b> Signatories of The Law Society Diversity and Inclusion Charter</p> <p><b>Data source:</b> Primary data; self-assessment</p>	<p><b>Taken/adapted from the executive summary:</b></p> <p>This report examines how signatories of The Law Society Diversity and Inclusion Charter are meeting their charter commitments. The statistics quoted in this report reflect the composition of the organisations of the Charter signatories who submitted a return.</p> <p><b>Key information:</b></p> <ul style="list-style-type: none"> <li>• Diversity and inclusion are becoming a priority - over 90% of large firms have a partner-level diversity champion.</li> <li>• Diversity and inclusion are becoming mainstream practice. More firms are getting top marks when it comes to promoting diversity and inclusion in employment, providing legal services to clients, and engaging with the community.</li> <li>• Large firms are performing particularly well when demonstrating their commitment to inclusion in the procurement process. 82% of large firms have an aspiration to work with a diverse range of suppliers and are actively exploring opportunities to do this.</li> <li>• Diversity and inclusion initiatives are having an impact on the makeup of the profession. 62% of all working solicitors are women. Solicitors from non-white British backgrounds increased to 27% in 2017. This is broadly in line with the proportion of ethnic minority people in the labour market as a whole. 4% of people working in the legal sector identify as lesbian, gay, or bisexual. One in five trans workers are solicitors; 6% are partners.</li> <li>• Firms are beginning to take action on promoting trans equality in the workplace. 30% of firms have a trans equality policy or statement. 28% of firms provide some training or engagement to help staff understand trans issues.</li> </ul>

Author/s	Year	Publication type/methods	Summary
The Law Society	2019a	<b>Guidance document</b> on understanding judicial roles.	This document outlines the different judicial roles, the title of said roles, application requirements and the application process.
The Law Society	2019b	<p><b>Report</b>  <b>Country:</b> UK and international  <b>Mixed method:</b></p> <ul style="list-style-type: none"> <li>• Findings from 12,000 legal professionals around the globe.</li> <li>• 7,781 survey responses</li> <li>• 225 roundtable discussions (across 13 jurisdictions) with women from across the legal profession</li> <li>• 40 additional roundtable discussions were conducted across England and Wales.</li> <li>• Specific roundtables were conducted for women with intersecting protected characteristics (Black, Asian and Minority Ethnic [BAME], Lesbian, Gay, Bisexual and Transgender [LGBT+], disabled solicitors etc.) and for other groups such as judges and women parliamentarians who had been lawyers.</li> </ul>	<p><b>Taken/adapted from the introduction and methodology section:</b></p> <p>The Women in Leadership in Law project aims to provide a solid foundation of qualitative evidence about the position of women in law, raise awareness of the challenges faced in tackling inequality and promoting creative solutions, empower women to become changemakers and leaders in their organisation, and to channel the support of male champions for change. The content of the report is intended to provide insight into the lived experiences of individuals working in the law.</p> <p>This report includes the top findings of the women’s roundtables. Roundtable participants were asked to focus on the key perceived issues that were identified in the survey – unconscious bias, the gender pay gap and flexible working – along with examples of best practice which can help to overcome the barriers to women’s progression.</p> <p>The report includes views on unconscious bias; remuneration, equal pay and the gender pay gap; flexible and agile working; and, best practice on diversity and inclusion.</p>

Author/s	Year	Publication type/methods	Summary
The Law Society	2019c	<b>Report</b> reviewing the Diversity Access Scheme applications for 2019.	<p><b>Taken/adapted from report:</b></p> <p>This report presented information on The Law Society Diversity Access Scheme (DAS). The scheme addresses three fundamental obstacles to fair access - finance, professional contacts and opportunities to gain work experience for talented people who are unable to pursue a career in law. 10 DAS awards are given each year.</p> <p>Applications to the DAS increased by 75% from 2018 to 2019. All applicants were asked to complete a diversity monitoring questionnaire, the results of which were well aligned with the core social mobility objectives of the scheme, with 100% of successful applicants having attended a state school and received free school meals and 70% having been part of the first generation in their family to attend university. Additionally, 10% of successful awardees have childcare responsibilities and 40% of successful awardees have other caring responsibilities. Almost 70% of applicants were from black Asian and Minority Ethnic (BAME) backgrounds. Of the successful awardees, around 60% were BAME. Mixed race applicants had the highest overall rate.</p> <p>The socio-economic background and ethnicity data may suggest a robust application and interview process; however, it had been acknowledged that there are significant issues with representation in relation to age, gender, disabled and LGBTQ+ applicants, which will continue to be an area of improvement.</p>

Author/s	Year	Publication type/methods	Summary
Turenne, S. and Bell, J.	2019	<p><b>Report / qualitative research</b> for the Senior Salaries Review Body.</p> <p><b>Sample:</b> Snowball sample of 59 legal professionals.</p> <p><b>Data source:</b> Interviews.</p>	<p><b>Taken/adapted from overview and executive summary:</b></p> <p>In October 2017, the Lord Chancellor asked the SSRB to carry out a Major Review of judicial pay, to be completed by June 2018. For this purpose, judicial recruitment, retention and motivation are one strategic area for review, and this study aims to provide the evidence needed to assist the SSRB properly and fairly to make important recommendations about judicial pay.</p> <p>Following the SSRB terms of reference, the authors collected data from legal professionals (practising at the Bar and legal firms) to better understand how to recruit and retain sufficient numbers of high-quality judges at different levels.</p> <p>The overarching research questions were to understand whether, from different areas of legal practice, the Bench is seen as an attractive option; to investigate and identify the reasons why some eligible people do not apply to the judiciary; to compare the reasons why some eligible people do not apply to the judiciary across different judicial posts and different groups of applicants, and; to compare those reasons across the UK jurisdictions.</p> <p><b>Key findings:</b></p> <p>There is little prospect that a raise in remuneration by itself will make an appreciable difference to increasing the appeal to applying for judicial appointment.</p> <p>Deterrents to application include:</p> <ul style="list-style-type: none"> <li>• The low morale of current judges.</li> <li>• Workload of judges.</li> <li>• Lack of flexibility in judicial work.</li> <li>• Living away from home when 'on circuit'.</li> </ul>

**Appendix table Error! No text of specified style in document.:3 Evidence summaries: External review**

Author/s	Year	Publication type/methods	Summary
Bond, S. and Wollaston, H. (for Chartered Institution of Highways and Transportation [CIHT])	2015	<p><b>Report/toolkit</b></p> <p><b>Phase 1:</b> a review of existing material on diversity and inclusion in highways and transportation. The findings were presented in a report.</p> <p><b>Phase 2:</b> a survey of 50 corporate partners, in which 25 organisations responded to the survey. The survey was followed by a series of interviews, meetings and phone calls with corporate partners to find out more about the good practice identified from the survey responses.</p>	<p><b>Taken/adapted from the executive summary and report:</b></p> <p>This report presents a toolkit for the highways and transportation sector in the UK, which explains how you can realise the benefits of workforce diversity in your business. It describes what actions companies in the sector are already taking and offers signposts to sources of further advice and support.</p> <p>The authors outline the business case for diversity, which focuses on positive impact of diversity in business, including: access to a wider talent pool, the recruitment of engaged and motivated people, better financial performance, increased market share and positive reputation, among other positive impacts.</p> <p>The authors also discuss diversity in Science, Technology, Engineering and Mathematics (STEM) and diversity in Highways and Transportation Construction. The survey conducted of 50 corporate partners had some key findings:</p> <ul style="list-style-type: none"> <li>• White men hold most of the leadership positions in the highways and transportation sector.</li> <li>• Most management roles in the sector are held by white men.</li> <li>• Women make up between a quarter and a half of the workforce, depending on the organisation.</li> <li>• Minority ethnic people make up less than 10% of the highways and transportation workforce and are mostly in non-managerial roles.</li> </ul> <p>The authors also outline the barriers to diversity and inclusion that are currently present for women and minority ethnic people; actions to attract a more diverse workforce; how to improve the recruitment process; how to retain and develop a more diverse workforce; how to change behaviour and culture relating to inclusion; and, next steps for employers in the sector.</p>

Author/s	Year	Publication type/methods	Summary
Bond, S. and Shapiro, G. (for Royal Academy of Engineering and Science Council)	2017	<b>Progress report</b> presenting combined key findings from the 2017 Diversity and Inclusion Progression Framework benchmarking exercise for professional engineering institutions (PEIs) and scientific bodies.	<p><b>Taken/adapted from the foreword and executive summary:</b> This report presents combined key findings from the 2017 Diversity and Inclusion Progression Framework benchmarking exercise for professional engineering institutions (PEIs) and scientific bodies, and highlights similarities and differences in the submissions and feedback from the two sectors. It provides a baseline against which to measure progress and gives insight into current good practice, challenges to progress, priorities and recommendations to drive change.</p> <p>The report highlights the progress made by the professional engineering community towards creating a more diverse workforce. The authors find that good progress is being made in several areas including setting goals, building strategy and plans, integrating diversity and inclusion into communications and raising awareness of unconscious bias. However, there is more that can be done to identify and formalise success measures, integrate diversity and inclusion into their core functions and activities, and extend the scope of their work beyond gender.</p>
British Medical Association	2016	<b>Strategy document</b> Corporate equality, diversity and inclusion strategy (2016-2021)	The British Medical Association corporate equality, diversity and inclusion strategy outlines the importance of diversity, equality and inclusion in the workplace. The strategy also outlines the activities that have been conducted to date to promote equality, diversity and inclusion within the medical profession. Additionally, planned further actions and initiatives to encourage equality, diversity and inclusion are highlighted.
General Medical Council	2015	<b>Guidance document</b> explaining the principles for the equality and diversity evidence required from the medical royal Colleges and Faculties when approving changes to curricula, examinations and assessment systems. Some cases studies that show what this might look like in an actual submission are included.	<p><b>Taken/adapted from the document:</b> This guidance document explains the principles for the equality and diversity evidence that is required from the medical royal Colleges and Faculties when approving changes to curricula, examinations and assessment systems. It outlines some case studies that show what this might look like in an actual submission. Each case study provides examples/guidance on providing background to the proposed changes to policy (i.e. the aims/purpose of the changes), identifying the potential impact of the change (for example, on equality and diversity), providing evidence to support the change, and potential areas of discrimination (e.g. will the change lead to differential access, experiences, or outcomes for people who share protected characteristics). Action planning and monitoring of the changes are also highlighted, such as steps taken to minimise any differential access, experience and outcomes and the removal of any unlawful discrimination.</p>

Author/s	Year	Publication type/methods	Summary
General Medical Council	2018	<b>Strategy document</b> Equality, diversity and inclusion strategy 2018-20	<p><b>Objectives taken/adapted from strategy:</b></p> <p>The equality, diversity and inclusion strategy 2018-2020 outlines the main objectives in place for the General Medical Council to achieve the following targets:</p> <ul style="list-style-type: none"> <li>• Deliver equality, diversity and inclusion through the corporate strategy.</li> <li>• Carry out regulatory activities fairly.</li> <li>• Provide leadership.</li> <li>• Use their influence to identify, understand and address inequalities for doctors and patients in the wider healthcare system.</li> <li>• Become an inclusive organisation.</li> </ul> <p>Additionally, the strategy addresses actions that have been taken in the previous three years, actions that are planned for the next three years and how these will be measured.</p>
Nursing & Midwifery Council	2017	<b>Strategy document</b> Equality, diversity and inclusion framework and five-year corporate strategy	The document outlines the Nursing & Midwifery Council's equality, diversity and inclusion framework, the five-year corporate strategy (2015-2020), including the equality, diversity and inclusion (EDI) strategic aims and the overall approach, including equality and diversity activities and actions taken.



Author/s	Year	Publication type/methods	Summary
Nursing & Midwifery Council	2020a	<p><b>Strategy document</b></p> <p>Reports on the outcome of a strategy consultation exercise, which comprised online surveys and focus groups with the public and nursing colleagues; a perceptions audit with stakeholders across the UK; two surveys regarding the focus of the strategy and a series of regional engagement events and meetings across the UK.</p>	<p><b>Taken/adapted from strategy document:</b></p> <p>The document outlines the Nursing &amp; Midwifery Council's Regulate Support Influence Strategy 2020-2025. The document outlines the strategic context, a consultation that took place, the primary results of this consultation, and the work of the Council against the strategic themes. The five overarching themes of the strategy are:</p> <ul style="list-style-type: none"> <li>• <b>Improvement and innovation:</b> to improve and innovate across regulatory functions, providing better customer service, and maximizing the public benefit.</li> <li>• <b>Proactive support:</b> enabling the professions to uphold their standards today and tomorrow, anticipating and shaping future nursing and midwifery practices.</li> <li>• <b>A more visible and informed regulator:</b> in closer contact with the professions, their employers and their educators so the Council can regulate with a deeper understanding of the learning and care environment in each country of the UK.</li> <li>• <b>Engaging and empowering:</b> actively engaging with and empowering the public, the professions and partners. An NMC that is trusted and responsive, actively building an understanding of what the Council and their professionals do for people.</li> <li>• <b>Insight and influence:</b> learning from data and research to improve what the Council do and working collaboratively to share insights responsibly to help improve the wider health and care system.</li> </ul> <p>The strategy concludes with highlighting how the strategic objectives will be measured, including:</p> <ul style="list-style-type: none"> <li>• Performance indicators (to monitor the quality and timeliness of core regulatory processes).</li> <li>• Reporting on benefits delivery at the programme level.</li> <li>• More robust research and evaluation of impact.</li> <li>• Customer experience measures and perceptions audit.</li> <li>• Evidence on stakeholder engagement – who, where, when and how.</li> <li>• Media sentiment analysis.</li> <li>• Employee engagement (e.g. staff survey).</li> <li>• Compare performance against recognised equality and diversity benchmarks.</li> </ul>

Author/s	Year	Publication type/methods	Summary
Nursing & Midwifery Council	2020b	<b>Report</b> Annual report and Accounts 2019-2020; Strategic Plan 2020-2025	<p><b>Taken/adapted from report:</b></p> <p>A small section of the annual report outlines actions taken in 2019-2020 to promote and encourage equality, diversity and inclusion in the workplace.</p> <p>In 2019–2020, the Nursing and Midwifery Council began a new piece of equality, diversity and inclusion (EDI) research to provide better information on how nurses, midwives and nursing associates with different protected characteristics move through the professions processes and to identify if there are disproportionate outcomes for any groups. Findings are intended to be published later in 2020.</p> <p>To promote diversity in the workforce, in 2019-2020, an EDI people plan was implemented that had three themes: workforce diversity; workplace inclusion; and a sustainable and accountable approach. Some actions that have been taken are outlined, including:</p> <ul style="list-style-type: none"> <li>• Changes to the way they recruit, building anonymity for applicants through the applicant tracking system to mitigate unconscious bias.</li> <li>• Strengthened the Network Groups (e.g. the LGBT+ Network, the Workaround Network, and the Cultural Network [now the BMe]) to ensure that they are supported to influence the work and promote awareness in relation to different protected characteristics.</li> <li>• Developed a new suite of EDI policies that will be launched in 2020-2021, designed to complement the revised HR policies.</li> <li>• An external assessment has been undertaken with Mind to identify areas for improvement in relation to staff well-being.</li> </ul> <p>The report also details next steps for the Council, such as aiming to create better outcomes for people with protected characteristics and beginning work on a new piece of EDI research, to provide better information on how nurses, midwives and nursing associates with different protected characteristics move through the processes and to identify if there are disproportionate outcomes for any groups.</p>

Author/s	Year	Publication type/methods	Summary
Royal Academy of Engineering	2016	<b>Report</b> on the approach taken by the Royal Academy of Engineers' diversity programme.	<p><b>Taken/adapted from report:</b>  This report documents the approach taken by the Academy to improve diversity across the engineering profession. The report captures key activity and programme achievement during the 2011-2016.</p> <p>The report outlines key strategic aims and associated actions:</p> <ol style="list-style-type: none"> <li><b>1) Communicate a compelling rationale for diversity and inclusion in engineering – e.g.</b> a case study toolkit was produced with the aim of promoting and sharing good practice across the profession.</li> <li><b>2) Develop an understanding of the diversity profile of those in engineering-related education, training, employment and professional registration – e.g.</b> research was conducted on unemployment rates of engineering graduates from diverse backgrounds and internship success, with a focus on gender and ethnicity.</li> <li><b>3) Understand and remove barriers to diversity and inclusion – e.g.</b> the Designed to inspire project was delivered with the aim of making it easier for ethnic minority groups in particular to engage with, and get inspiration from, role models from similar backgrounds.</li> <li><b>4) Measure and report on impact – e.g.</b> the role of our Diversity and Inclusion in engineering survey report 2015 to obtain a baseline against which to measure progress.</li> <li><b>5) Lead the way in demonstrating good diversity in engineering practice – e.g.</b> an Equality Diversity and Inclusion Policy was implemented in 2015, designed to ensure the Academy complies with its obligations under equality legislation and demonstrates commitment to treating people fairly by identifying and removing any unnecessary barriers to participation.</li> </ol> <p>The strategic approach that the Academy has developed as it embarks on the next phase of the programme is also presented.</p>

Author/s	Year	Publication type/methods	Summary
Royal Academy of Engineering and the Science Council	2017	<b>Progression framework outline</b>	<p><b>Taken/adapted from document:</b></p> <p>The document set out the Diversity and Inclusion (D&amp;I) Progression Framework that was developed in a collaboration between the Royal Academy of Engineering and the Science Council to progress diversity and inclusion across 63 engineering and science professional bodies. It builds on the Engineering Diversity Concordat and the Science Council Declaration on Diversity, Equality and Inclusion with the aim of helping professional bodies track and plan progress on D&amp;I. The framework asks professional bodies about progress on D&amp;I in the eight areas listed below:</p> <ul style="list-style-type: none"> <li>• Governance and leadership</li> <li>• Membership and professional registration</li> <li>• Meetings, conferences and events</li> <li>• Education and training, accreditation and examinations</li> <li>• Prizes, awards and grants</li> <li>• Communications, marketing, outreach and engagement</li> <li>• Employment</li> <li>• Monitoring and measuring</li> </ul>
Royal Academy of Engineering	2018	<b>Diversity and inclusion (D&amp;I) framework</b>	<p><b>Taken/adapted from framework:</b></p> <p>This article presents the Royal Academy of Engineering's Diversity and Inclusion (D&amp;I) framework to support the measurement of diversity and inclusion in Engineering. The framework consists of sixteen measures covering all stages of the employee lifecycle to give leaders, managers and HR/people managers a clear understanding of the actions they could each take to effect change. The sixteen measures are split across four areas: leadership, attraction and recruitment, retention, and progression.</p> <p>The aim is that the measures set out in the document will be used by employers/ organisations to take evidence-based action to increase D&amp;I within engineering and to monitor and report progress.</p>
Royal Academy of Engineering	2020a	<b>Diversity and inclusion programme</b>	<p><b>Taken/adapted from document:</b></p> <p>The diversity and inclusion programme outlines the main areas of work that the Royal Academy of Engineering are undertaking to promote diversity and inclusion within the engineering profession, including working with the Diversity and Inclusion Leadership Group (DILG), the Graduate Engineering Engagement Programme (GEEP), and the development of the Diversity and Inclusion Progression Framework.</p>

Author/s	Year	Publication type/methods	Summary
Royal Academy of Engineering	2020b	<b>Action plan</b> Diversity and inclusion action plan 2020-2025	<p><b>Taken/adapted from document:</b> The Diversity and Inclusion Action Plan 2020-2025 outlines the aims of the Royal Academy of Engineering strategy, the goals of the action plan regarding diversity and inclusion, and how they will set out to achieve the outlined goals.</p> <p>The main goals outlined are as follows:</p> <ul style="list-style-type: none"> <li>• The Academy's progressive leadership drives positive change towards diverse and inclusive cultures.</li> <li>• Employers are supported and challenged to increase diversity and cultivate inclusive cultures.</li> <li>• An informed engineering profession with the confidence and capacity to increase diversity and inclusion.</li> <li>• A network of champions advocating for improved diversity and inclusion across engineering.</li> </ul>
Royal College of Nursing	2017	<b>Strategy document</b> Equality and inclusion strategy	<p><b>Taken/adapted from strategy:</b> The equality and inclusion strategy outlines the strategic vision and the key strategic priorities of the Royal College of Nursing, which are:</p> <ul style="list-style-type: none"> <li>• <b>Challenge and change:</b> the importance of the RCN generating a robust and compelling evidence base through which to challenge employers, service providers and policy makers to initiate structural, long-term positive change and deliver better outcomes for all RCN members. In turn, ensuring that nurses and health care support workers can work in environments that are fully inclusive and are free from unlawful discrimination.</li> <li>• <b>Connect and communicate:</b> the ability to demonstrate leadership by articulating a clear and compelling narrative that promotes equality and inclusion.</li> <li>• <b>Equip and inform:</b> the need to strengthen the continuing learning and development provided to the accredited representatives on a wide range of equality and inclusion issues.</li> <li>• <b>Identity and intersectionality:</b> focus on identity and intersectionality and seeks to tackle the impact of severe and persistent disadvantage faced by groups with protected characteristics.</li> <li>• <b>Inspire and activate:</b> inspire those RCN members who have not previously thought about becoming an accredited representative to be positively stimulated by the idea of other forms of activism to help exert influence in the workplace, whilst using equality and inclusion as a focus through which a broader programme is delivered.</li> </ul> <p>The strategy also outlines the key milestones, indicative timetable and headline actions over the next three years against the priority areas.</p>

Author/s	Year	Publication type/methods	Summary
Royal College of Nursing	2018	<b>Inclusion and equality resource</b>	<p>The Inclusion Café resource outlines how inclusion and equality can be promoted in the workplace, with focus on the five key priorities highlighted in the Royal College of Nursing equality and inclusion strategy:</p> <ul style="list-style-type: none"> <li>• Challenge and change</li> <li>• Connect and communicate</li> <li>• Equip and inform</li> <li>• Identity and intersectionality</li> <li>• Inspire and activate</li> </ul> <p>The resource also outlines types of discrimination and highlights the detrimental effect of workplace incivility.</p>
Taylor, R. and Turner-Smart, G.  InterEngineering	2019	<b>Workshop report</b>	<p><b>Taken/adapted from report:</b></p> <p>The report highlights the overarching findings, suggestions and feedback from an InterEngineering workshop that was hosted by Rolls-Royce and attended by other representative organisations. The aim of the workshop was to identify and discuss how organisations could better support bisexual employees in the workplace.</p> <p>The questions for the group were created to see what common themes emerged and a number of key points came out of each. Some of the output from this workshop is at quite a high level and time constraints did not allow for further exploration into many of the points raised. However, it was found that each group within the LGBTQ+ community has different issues and have made differing amounts of progress over time.</p> <p>This report identifies reasons why bisexual employees should be supported, and it looks at typical issues for someone who is bisexual. It recognises that bi visibility, erasure, and harmful stereotyping impact on a person's mental health, with 50% of bi women and 43% of bi men having considered that life was not worth living in the last year.</p> <p>It is recommended that a future workshop is devised to look at how companies have developed and implemented the points raised in this report and to further share the resources that may have been created.</p>

Author/s	Year	Publication type/methods	Summary
UK Research and Innovation	2018	<b>Strategy report</b> with a section outlining work around the promotion of equality, diversity and inclusion.	<p><b>Taken/adapted from report</b></p> <p>This strategy document contains a brief section on the importance of diversity in UKRI and working with stakeholders to achieve and promote this, including devising a strategy and an action plan for equality, diversity and inclusion. Additionally, the report sets out aims to establish an External Advisory group. The aims of the plan are further outlined, with objectives to:</p> <ul style="list-style-type: none"> <li>• Drive change, both as an employer and through research and innovation funding.</li> <li>• Embed equality, diversity and inclusion at all levels.</li> <li>• Seek to create a culture that facilitates and safeguards the opportunities for all to be respected and treated fairly.</li> <li>• Take an evidence-based approach, commissioning and funding research and evaluations to understand the issues, what interventions work and what do not.</li> <li>• Collaborate and engage with partners nationally and internationally, in order to gather evidence and ideas, and help catalyse and facilitate change.</li> </ul>
UK Research and Innovation	2020	<b>Report</b> on UKRI diversity data	<p><b>Taken/adapted from the 'background' section:</b></p> <p>This report presents coordinated diversity data from all seven research councils:</p> <ul style="list-style-type: none"> <li>• Arts and Humanities Research Council (AHRC)</li> <li>• Biotechnology and Biological Sciences Research Council (BBSRC)</li> <li>• Engineering and Physical Sciences Research Council (EPSRC)</li> <li>• Economic and Social Research Council (ESRC)</li> <li>• Medical Research Council (MRC)</li> <li>• Natural Environment Research Council (NERC)</li> <li>• Science and Technology Facilities Council (STFC)</li> </ul> <p>The data produced includes the following presented by age, disability, ethnicity, and gender:</p> <ul style="list-style-type: none"> <li>• Proportion of applicants and awardees for research grants and fellowships.</li> <li>• Award rate (number of awardees as a proportion of number of applicants).</li> <li>• Award value for successful applicants for research grants and fellowships (published for the first time).</li> <li>• Proportion of doctoral studentship starts.</li> <li>• Estimate of UK staff and student populations for each research council based on Higher Education Statistics Agency (HESA) data to understand whether the applicants, awardees and students reflect the underlying population of students and staff.</li> </ul> <p>Findings by diversity characteristics for the cross-UKRI Future Leaders Fellowships (FLF) are also reported.</p> <p>The report also notes that UKRI have started work on other strands such as intersectionality, detailed ethnicity analysis and regression analysis.</p>

Author/s	Year	Publication type/methods	Summary
Woolf, K., Rich, A., Viney, R., Rigby, M., Needleman, S. and Griffin, A.	2016	<b>Qualitative research</b> Focus groups and interviews conducted with 137 doctors, 96 trainees and 41 trainers.	<b>Taken/adapted from executive summary:</b> Reports on the findings of a qualitative research project that was part of a programme of research commissioned by the General Medical Council (GMC) to explore why UK doctors from black and Asian Minority Ethnic (BAME) groups, and doctors whose Primary Medical Qualification (PMQ) is from a medical school outside of the UK have, on average, poorer outcomes in assessments and recruitment compared to white doctors and UK medical school graduates. Participants were asked about their experiences and perceptions of the fairness of postgraduate training for BAME groups.



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# Appendix F

## Organisations: Landscape review

**Appendix table Error! No text of specified style in document.:1 Organisations targeted for landscape review**

Organisation	Notes
Judicial Diversity Forum	
Judicial Appointments Commission	JDF partner
Ministry of Justice	JDF partner
The Judicial Office/Judiciary	JDF partner
Bar Council	JDF partner
Law Society	JDF partner
CILEX	JDF partner
Legal Services Board	JDF partner
<u>JUSTICE</u>	Other relevant organisation
<u>Judicial Diversity Initiative</u>	Other relevant organisation
<u>Senior Salaries Review Body</u>	Other relevant organisation
Solicitors Regulation Authority	Other relevant organisation
Bar Standards Board	Other relevant organisation

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# Appendix G

## Organisations: External review

**Appendix table Error! No text of specified style in document.:1 Targeted organisations for external review by profession**

Profession	Organisations / governing bodies
Science	UK Research and Innovation
Science	The Science Council
Engineering	Royal Academy of Engineering
Engineering	Engineering Council
Medicine	British Medical Association
Medicine	General Medical Council
Medicine	Nursing and Midwifery Council
Medicine	Royal College of Nursing



