

**CHARTER** FOR THE  
**ADVANCEMENT**  
OF **WOMEN**

**EQUITABLE  
REMUNERATION  
IN THE LEGAL  
PROFESSION**

SEPTEMBER 2023



THE LAW SOCIETY  
OF NEW SOUTH WALES



## FOREWORD BY CASSANDRA BANKS, PRESIDENT, THE LAW SOCIETY OF NSW

Promoting ways to address the gender pay gap within the legal profession is one of my priorities as President of the Law Society in 2023. Our *2021 Annual Profile of Solicitors NSW* indicated that wage disparity increases in line with seniority and that the gender pay gap remains evident in the majority of practice sectors. The pay gap is most noticeable for those over the age of 30, with a greater proportion of men who work full-time earning over \$150,000 (41%) compared to women who work full-time (34%). For those solicitors aged 35-39, 26% of women earn over \$250,000 as opposed to 33% of men. In the 40-49 age category, 23% of women earn more than \$250,000, as opposed to 34% of men.<sup>1</sup>

Important work is being undertaken by many firms and legal practices across NSW to embed diversity and inclusion in their operations. However, it is clear that, as a profession, we need to maintain a focus on this work, including gender pay equity, as a matter of priority. Equitable remuneration will not be achieved without commitment and deliberate actions across the profession.

In response to the findings on the gender pay gap from the *2021 Annual Profile of Solicitors NSW*, the Law Society's Diversity and Inclusion Committee hosted a number of workshops in August 2022 examining the causes of the pay gap and how best to address gender equity in senior roles. There were around 25 participants in those workshops, including human resources professionals as well as partners and solicitors from small, large, and international firms, many of whom are signatories to the Law Society's *Charter for the Advancement of Women*.

The *2022 Annual Profile of Solicitors NSW* confirmed that women are still overrepresented in less senior roles in the profession, and that the gender pay gap remains evident across all practice sectors, and among men and women of the same age and those who have been admitted for the same number of years.

The purpose of this paper is to share information with the wider profession on the issues canvassed by the workshop attendees, as well as other current research, including ideas on how the solicitor arm of the profession can actively work towards equitable remuneration through addressing the gender pay gap.

The workshops focused on the advancement and ongoing pay gap faced by cisgender women. The Law Society acknowledges that inequitable remuneration and pay gaps are also faced by transgender and non-binary people, as well as people of different ethnic and racial origin and people with disability, and that the pay gap can have an intersectional impact.

Gender equality makes sense both as a value and a business imperative. I hope this publication will assist you in continuing the discussion and action on equitable remuneration in your workplace in 2023 and beyond.

*Equitable remuneration will not be achieved without commitment and deliberate actions across the profession.*

**10** WAYS TO  
ADDRESS  
THE GENDER  
PAY GAP IN  
THE LEGAL  
PROFESSION



## 1 IMPROVE DATA CAPTURE AND UNDERTAKE A PAY GAP ANALYSIS

It is possible that some employers in the legal sector are not fully aware of the impact of the gender pay gap. This lack of awareness may reinforce remuneration inequity in their firms.

We recommend that legal practices review their remuneration data (fixed remuneration as well as discretionary payments/bonuses and other benefits) as a basis to examine what is driving the gender pay gap within their practice.<sup>2</sup> Even for those smaller firms and agencies that are not legally required to report to the Workplace Gender Equality Agency (WGEA), we consider that a pay gap analysis is a key way to ensure accountability and improve performance. For larger firms, it may be useful to consider the data in greater detail beyond legal reporting requirements. As noted by the WGEA:

*The more detailed your analysis – for instance, by including employee manager/non-manager positions, employment status and age – the more you will be able to tailor a strategy and action plan to address your organisation’s specific issues.<sup>3</sup>*

In this context, the advice from the Law Society of England and Wales to firms reporting in that jurisdiction may offer assistance. It notes that a more comprehensive picture will be achieved by distinguishing the pay gap for the whole of the workforce (i.e. legal employees, partners, and business service colleagues) as compared with legal employees only, partners only and business service colleagues only. For greater transparency, these figures can be broken down further by job type and by level (e.g. graduate, associate, senior associate, partner). Similarly, an analysis that

distinguishes between equity and non-equity partners as well as outcomes for part-time and flexible working employees compared with full time employees will provide a more nuanced understanding of how to address particular challenges facing a firm.<sup>4</sup>

In addition to organisation-wide, level-by-level and like-for-like analyses, an external market-based review can also highlight systemic issues. The Champions of Change Coalition has identified different externally verified methodologies that will allow companies to explore the root causes and variations in their pay gap.<sup>5</sup>

Another helpful suggestion for effective data analysis is to not simply look at remuneration at a single point in time, but also to consider key milestones in the employee lifecycle. For example, it assists to know whether women are recruited at a lower salary than men; whether women get ‘stuck’ at certain levels (e.g. associate; senior associate) or pay grades; and the rate at which, and the reasons why, women and men leave a firm.<sup>6</sup>

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Does our firm collect data on the gender pay gap?
- How is this data captured and analysed?
- What more do we need to know to gain a comprehensive picture of the gender pay gap in our organisation?
- Are our HR staff trained to perform an internal gender pay audit?
- How does our gender pay gap compare against the market?

#### Resources/Further Reading:

- WGEA, *Five steps to take when conducting a pay gap analysis*
- Champion of Change Coalition, *Closing the Gender Pay Gap*
- The Law Society of England and Wales, *Gender pay gap reporting: setting the standard for the profession*
- The Behavioural Insights Team, *Eight ways to understand your organisation’s gender pay gap*
- Glassdoor, *How to Analyse Your Gender Pay Gap: An Employer’s Guide*

## 2

## CREATE A GENDER ACTION PLAN/ STRATEGY WITH TARGETS

A gender action plan/strategy is one way in which to anchor gender equality as a priority and focus on practical action and outcomes. As noted by research published by the Global Institute for Women's Leadership, 'action plans ... need to involve a level of self-reflection, as well as timebound, measurable targets and some follow up to see if the targets have been met'.<sup>7</sup>

The WGEA have described the benefits of a gender action plan or strategy as follows:

*A strategy provides a foundation for a plan of action to achieve a range of objectives. It provides a blueprint for accountability against measurable objectives – outlining who will execute tasks and by when. A strategy helps to create specific project plans for discrete initiatives and it can provide detail about how to prioritise actions.*

*Without a strategy, it is very difficult to gauge whether day-to-day activities and decisions are helping the organisation effectively progress towards the desired end-goal. A gender equality strategy enables organisations to move beyond an ad-hoc (programmatically) approach to gender equality and ensures investment in gender initiatives is targeted.*<sup>8</sup>

Action plans are not mandated in Australia, but reporting entities under the *Workplace Gender Equality Act 2012* (Cth) are required to indicate policies across different areas pertaining to gender equality (e.g. policies on recruitment, promotion, performance management processes, talent identification, succession planning, training and development, flexible working arrangements, parental leave, domestic violence leave and sexual harassment).<sup>9</sup> While they do provide a useful framework, the mere existence of policies does not guarantee effective implementation.<sup>10</sup> An overriding action plan helps to bring together interconnecting policies pertaining to gender equality and shift the focus from monitoring to concrete action.

Explicit gender targets can play a central role in a gender action plan. The Behavioural Insights Team, an organisation

focused on the application of behavioural science, has suggested that general D&I aspirations for an organisation (e.g. "We will change our culture to be more inclusive") do not bring about change unless they are underpinned by concrete goals and/or targets.<sup>11</sup> In the business sector, for example, it has been shown that targets are an effective way to achieve gender-balanced leadership at the senior-executive level. According to Chief Executive Women's 2021 Senior Executive Census, 34% of ASX300 companies with targets have achieved gender balance in senior executive leadership teams compared with 13% of companies without targets.<sup>12</sup>

In this context, we note that the Women Lawyers Association of NSW has previously advocated for a 40:40:20 gender diversity ratio, with women to comprise 40 percent of promotions or partnership admissions, men to comprise 40 percent, and the remaining 20 to vary depending on the applicant pool.<sup>13</sup> Since that time, firms have also flagged the way in which this ratio can be used to form the basis of gender metrics in addition to promotions and partnership admissions, including management committees, leadership roles and senior business service hires.<sup>14</sup>

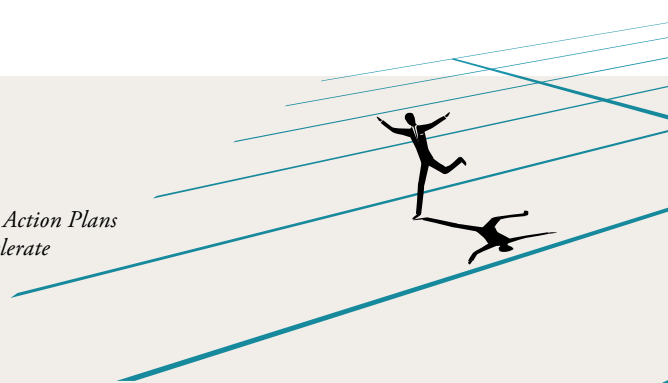
While internal targets are a positive step forward, making these targets public can enhance accountability, while signalling to the market that gender equality is central to core business operations and a firm is willing to 'walk the walk' despite challenges that may be encountered.

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Does our firm have a gender action plan?
- Has the action plan been developed in consultation with employees and clients?
- Does the action plan contain timebound targets and measurable goals?
- Does the action plan cover priority areas pertaining to gender equality (i.e. recruitment, promotion, work allocation, flexible working, and workplace culture)?
- Are there appropriate governance structures in place to monitor the action plan, ensure compliance and adapt the plan as necessary?
- Do we share metrics from our action plan reporting with clients to improve transparency?

#### Resources/Further Reading:

- WGEA, *Gender Strategy Toolkit*
- Victorian Commission for Gender Equality in the Public Sector, *Gender Equality Action Plans*
- Chief Executive Women, *Take It From The Top: Top Five Ways Businesses Can Accelerate The Number Of Women In Senior Leadership Teams*



## 3

## CONSIDER THE IMPACT OF BILLING STRUCTURES AND THE WAY WORK IS ALLOCATED TO SOLICITORS

Many firms still rely on a billable hours structure, with those who bill a greater number of hours sometimes rewarded through high performance ratings and bonuses.

Some firms have noted that billable hours tend to be lower for women than men, which may arise from a range of reasons, including work allocation, the take-up of part-time arrangements, caring responsibilities, or different billing practices between individuals and/or teams.<sup>15</sup>

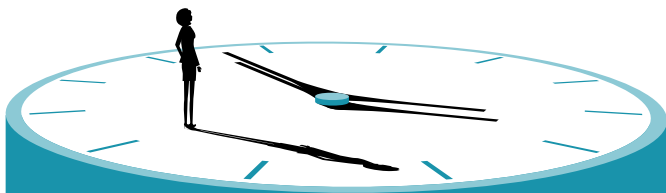
Research from the Canadian Bar Association cited examples of so-called ‘big-ticket’ and ‘money-making’ work being allocated disproportionately to male lawyers.<sup>16</sup> This issue of equity needs to be brought to the attention of senior lawyers whose responsibilities include overseeing the allocation of work. Some firms have reported approaches to narrowing the gap between the billable hours of men and women by changing the way in which work is allocated. One example is where an independent manager (rather than a partner) allocates work. In some firms, this is reported to have created a greater perceived fairness around the ability to work on new matters.<sup>17</sup>

Other firms have moved away from a structure centred around billable targets in favour of a fixed fee model or other approaches. There has been an acknowledgement within law firms that billable targets can be counterintuitive, considering they potentially reward inefficiency. As UK-based Freshfields Bruckhaus Deringer senior partner, Georgina Dawson, said in the Fiona Woolf Lecture held in December 2021: ‘We need to measure outputs not inputs’.<sup>18</sup>

Another important factor to consider is the way in which a firm’s remuneration processes take account of the value of non-billable work. The Canadian Bar Association has recalled women’s experiences of undertaking so-called ‘pink work’ i.e. administrative work in the office to which women are expected to contribute but for which they are not acknowledged or compensated.<sup>19</sup> Other non-billable work (e.g. membership of firm/profession-wide committees; participating in mentoring/recruiting) or non-financial billable work (such as pro bono work) can bring immense value to a firm, but is sometimes overlooked in the remuneration process. It is important that those making remuneration decisions are aware of such contributions of their lawyers and that they set up processes for recognising these.

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Do our firm’s billing processes reinforce the gender pay gap?
- Do women in our firm record less billable hours than men?
- Is there a balanced distribution of work among our male and female employees?
- How can we change the way in which work is allocated to ensure access to opportunities for all lawyers in our firm?
- What is the best way to focus on the outputs, rather than the inputs, of our staff?
- In what way do our remuneration processes take account of the value of non-billable work?
- What metrics might be suitable to measure non-billable work?



### Resources/Further Reading:

- The Canadian Bar Association, *Women Lawyers Forum: Pay Equity in the Legal Profession*
- Victorian Women Lawyers, *Addressing the Gender Pay Gap in the Legal Sector*
- Next 100 Years and Gapsquare™, *Closing the Gender Pay Gap in the Legal Profession*
- The Law Society of England and Wales, *Influencing for Impact: The Need for Gender Equality in the Legal Profession*



## 4

## INCREASE TRANSPARENCY AROUND COMPENSATION

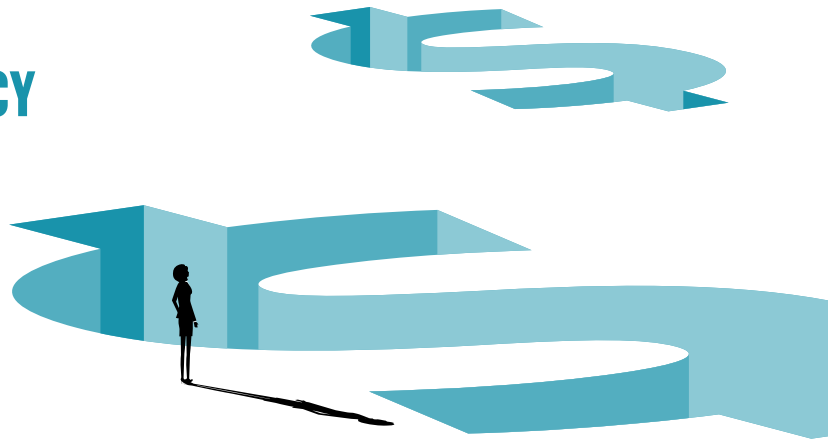
There is significant evidence that measures aimed at addressing pay secrecy and promoting pay transparency contribute to reducing the gender pay gap.

In light of the enactment of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth), Australian employees now have a workplace right to disclose their remuneration and terms and conditions of employment, and to ask colleagues this information (with a corresponding right for employees to decide to not disclose that information). While this is an important start, more work will be required to translate this into a culture of pay transparency in law firms. It may be, for example, that an unwritten rule around not disclosing pay will persist and that conversations about remuneration need to be normalised in the context of a wider cultural shift that is supported by a firm's partnership, team leaders and HR professionals.

One possible solution is for employers to take control of the narrative and drive positive change in the profession by publishing pay grades or taking other steps to support pay transparency. Examples include a number of large professional services firms which have implemented such a practice and have reported that they are beginning to see transformative and sustainable change as a result.<sup>20</sup>

Companies that implemented pay transparency have noted its benefits, not only for diversity but also for enhancing goal-setting behaviours of all employees. In an article for *Forbes*, the CEO of UK tech firm, Verve, described a distinct advantage as follows:

*People have a lot more clarity about how they can move up in the organization, horizontally or vertically, and that is going to help them think more intelligently about their career, and gives them power they haven't had before.*<sup>21</sup>



Furthermore, pay transparency can help to foster a culture of trust, for example, by eliminating speculation among employees regarding each other's salaries.<sup>22</sup>

Adewale Ajayi and Yewande Alli (KPMG Nigeria) have noted that while there is no 'one-size-fits-all' approach, pay transparency must be underpinned by an HR strategy and may involve communicating a range of different information to employees.<sup>23</sup> This can include setting out a firm's overriding philosophy vis-à-vis remuneration and explaining a firm's total rewards strategy (i.e. compensation, benefits, work-life, performance and recognition, development and career opportunities) for classes of employees and how variable/discretionary pay is determined. It is also helpful to understand how a firm benchmarks compensation in response to the market by being open about comparator firms with respect to compensation as well as the survey data upon which a firm relies to make a comparison.<sup>24</sup>

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Does our firm have an overriding philosophy with respect to pay?
- Has there been any change in the culture around pay at our firm following the enactment of pay secrecy changes in the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth)?
- What would be some of the advantages of publishing our pay grades, pay gap reporting and equal pay audits?
- Are our employees aware of our comparator firms against which we benchmark their salaries?
- Are our employees informed about the survey data upon which we rely to assess the market?

#### Resources/Further Reading:

- The Canadian Bar Association, *Women Lawyers Forum: Pay Equity in the Legal Profession*
- KMPG, *Managing Pay Transparency: Article by Adewale Ajayi and Yewande Alli*
- BambooHR, *How to Prepare for Pay Equity Conversations with Employees & Leadership*
- OECD, *Can pay transparency policies close the gender wage gap?*

## 5

## ENSURE THAT FLEXIBLE WORKING ARRANGEMENTS DON'T NEGATIVELY AFFECT WOMEN'S ADVANCEMENT

The COVID-19 pandemic fundamentally changed the way in which employers and employees think about and take advantage of flexible working arrangements.

In the past, the availability of flexible work options was often seen as something to be assessed on an individual basis (rather than on a team or organisation-wide scale) and was only available for certain categories of employees (e.g., women with caring responsibilities). The latest research shows that flexible arrangements are now seen as a 'normal gender-neutral practice', with many organisations' policies around flexibility applying to all employees.<sup>25</sup> As noted by the Champions of Change Coalition:

*COVID-19 has amplified the fact that the capacity to work flexibly is critical to business continuity, occupational health and safety, workforce planning and risk management. There is now an opportunity to fully embrace flexible ways of working as a business priority, and a critical leadership and organisational capability.*<sup>26</sup>

Recent findings show that remote working in many cases does not negatively impact individual and organisational productivity and performance and, in some cases, may have an enabling effect, including on profit and performance, sustainability, employer branding, wellbeing, engagement and talent management.<sup>27</sup> It is important, however, that firms have strategies to counteract the disadvantages that may impact those employees who choose to take advantage of flexible working arrangements. As noted by WGEA:

*Recent research has ... suggested a varied experience with hybrid working during the pandemic, including negatives like longer working hours, reduced exposure to executive leadership, impacts on a chance of promotion or exclusion from important meetings.*<sup>28</sup>

Given some potential downsides of flexible arrangements, it is important that law firms consider the ways in which sponsorship of women can occur in a hybrid environment. Apart from organisation-wide policies, partners should be required to work with their team to ensure that flexible workers have the same access to high profile work and professional and social connections with colleagues and important clients.

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Do our employees have information on the different types of flexible working arrangements available?
- How do we ensure a culture that prioritises performance over presenteeism?
- How do we ensure employees taking advantage of flexible arrangement have the same access to high profile work and networking opportunities with clients?
- Do partners in our firm model flexible working arrangements?



#### Resources/Further Reading:

- Champions of Change Coalition, *Accelerating Change on Flexible Ways of Working*
- Law Council of Australia, *Flexible workplaces in the legal profession*
- Margaret Thornton, ANU College of Law, *Who Cares? The Conundrum for Gender Equality in Legal Practice*



## 6

## ENSURE THAT LATERAL RECRUITMENT DOES NOT PERPETUATE INEQUITABLE PAY OUTCOMES

Lateral recruitment refers to the hiring of employees working in a like role at another firm. While better remuneration outcomes may be achieved when making a lateral move rather than waiting for a promotion, there are hurdles to positive lateral hiring outcomes for women in the profession.

Challenges include the common practice of seeking information regarding an applicant's current remuneration (which can perpetuate inequitable pay outcomes), not appropriately tailoring advertisements that encourage women to apply for roles and/or not taking steps to mitigate against unconscious bias in hiring decisions.

There are a number of steps that can be taken to support more equitable recruitment outcomes and, in turn, pay outcomes for women. For example, firms should ensure that there is a clear lateral hiring strategy for the organisation, backed by a gender action plan/strategy (See Suggestion 2 above). This can include targets around the number of women on shortlists for partner lateral hires and ensuring that all those involved in the hiring process have recently undertaken unconscious bias training. Further, in light of research that women are less likely to ask for a referral than men, it is advised that companies 'build a gender balanced pipeline' than includes 'a healthy blend of referrals, active applicants, and sourced candidates'.<sup>29</sup>

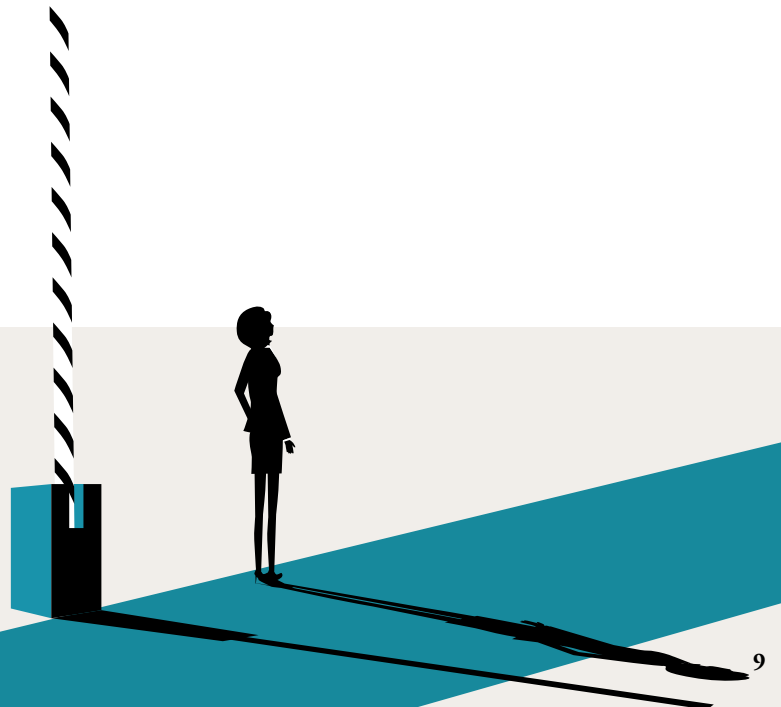
It is important that recruitment communications (including job advertisements and offers sent to targeted potential lateral hires) do not use gendered language or contain unreasonably lengthy lists of eligibility requirements. Research suggests that gendered language in job advertisements can deter female candidates from applying.<sup>30</sup> Further, some women may choose not to apply for a role unless they perceive that they meet every key capability listed or are overqualified. A LinkedIn Gender Insights Report from 2019 suggests women are 16% less likely than men to apply to a job after viewing it and that overall they apply to 20% fewer jobs than men.<sup>31</sup> For this reason, adding clarity as to which skills are essential and which are desirable may enhance gender equity outcomes in lateral recruitment.

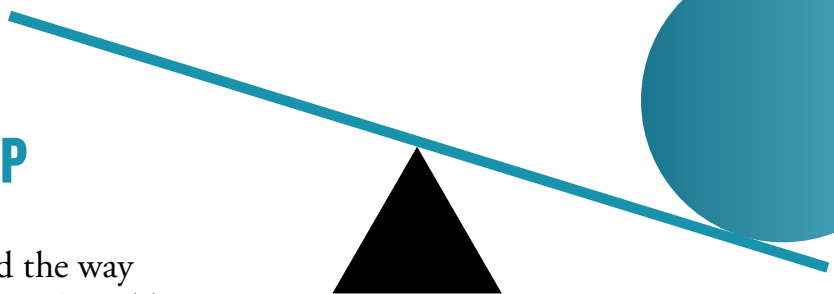
### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Does our firm have a lateral recruitment policy?
- Do we have a practice of not asking applicants about their current remuneration?
- Do we avoid gendered language in our recruitment communications?
- Do our job advertisements distinguish between essential and desirable skills?

#### Resources/Further Reading:

- WGEA, *Gender equitable recruitment and promotion*
- LinkedIn Talent Solutions, *Gender Insights Report: How women find jobs differently*
- Harvard Business Review, *How to Recruit More Women to Your Company*
- Business Roundtable, *A Guide to Improving Recruitment, Retention, Advancement and Equity*
- McKinsey & Company, *Women in law firms*





## 7 BE AWARE OF A CONFIDENCE GAP

Workshop participants discussed the way in which a so-called ‘confidence gap’ could impact women’s advancement and earnings in the legal workplace. Anecdotally, participants had observed that women may be less likely to consider themselves qualified for senior roles and could sometimes be reticent about bargaining for a pay rise and/or advancement.

The recognition of the impacts of a ‘confidence gap’ have resulted in a discourse around building women’s confidence and assertiveness in the workplace, popularised by the call for women to ‘lean in’. However, some commentators have pointed out that focusing on what might be perceived as a deficit in women’s behaviour, namely a lack of confidence, may be used to mask structural inequalities in the workplace.<sup>32</sup> For example, Professors Shani Orgad and Rosalind Gill have coined the term ‘confidence culture’ to examine the way in which contemporary workplace culture uncritically accepts the importance of confidence for a person’s career advancement and, as a result, focuses on the individualised, psychological deficits of some employees, especially women.<sup>33</sup>

Employees of any gender may benefit from formal training to fine-tune their negotiation and networking skills. At the same time, those involved in the recruitment and reward processes should be asked to think critically about the role of confidence. It is important that employers understand, for example, the way in which the confidence gap impacts pay negotiations. Furthermore, there should be awareness that there can be differences in negotiation styles across race and nationality in addition to gender. As noted above, ensuring that candidates are not asked about their current salary (see Section 6 on lateral recruitment) is one way to guard against the perpetuation of pay inequality.

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- In what ways do we take account of a confidence gap when recruiting or rewarding our employees?
- Has our leadership team considered the role of confidence in a critical way? What other attributes are necessary for success in our work?
- What sorts of structured and unstructured programs do we offer to equip our lawyers with pay negotiation skills?

#### Resources/Further Reading:

- London School of Economics and Political Sciences (LSE), *What is “confidence culture” and how does it harm women?*
- Institute for Gender and the Economy, *Addressing the gender confidence gap*
- Oxford Economic Papers, *Personality and Pay: Do gender pay gaps in confidence explain gender pay gaps in wages?*

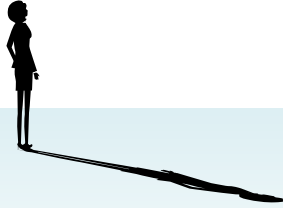
## 8

## PRIORITISE INTERSECTIONALITY WHEN CONSIDERING THE GENDER PAY GAP

Employers should recognise the way in which diverse identities impact women's advancement in the workplace. Applying an intersectional lens to issues around the gender pay gap will mean that employers recognise that the potential hurdles faced by women may be exacerbated due to bias and discrimination experienced not solely on the basis of gender but also on the basis of race, disability, sexual orientation, socio-economic status or other aspects of their identity.

Recent research from the United States on the experiences of women with traditionally marginalised identities in the workplace highlights some of the current challenges. For example, Asian and Black women were less likely to report having allies in the workplace who will take sponsorship actions on their behalf, such as advocating for them to receive a pay rise or publicly praising their work.<sup>34</sup> Furthermore, women with disabilities experience a greater number of challenges to their competence, with colleagues questioning their judgement in their area of expertise and taking credit for their work.<sup>35</sup>

Research by the Law Society of England and Wales showed that Black, Asian and minority ethnic solicitors are earning less overall, have slower career development up to and including partner and occupy fewer senior positions.<sup>36</sup>



Some commentators in Australia have highlighted the lack of disaggregated data on the impact of intersectional identities on the gender pay gap.<sup>37</sup> The legal profession is in a position to take a lead on this issue by encouraging employees to disclose their diversity data in a broad way, where they are comfortable in doing so, to gain a clear picture of areas for improvement.

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- Do partners and our broader workforce understand the concept of intersectionality?
- How can we ensure that intersectional identities are not overlooked in our gender equality action plan and policies?
- Does our firm collect data on the ethnicity gap?
- How do we monitor representation, retention and progression for culturally and linguistically diverse solicitors, including women?

#### Resources/Further Reading:

- WGEA, *Gender equality and intersecting forms of diversity*
- McKinsey & Company, *Women in the Workplace in 2022*
- *The Law Society of England and Wales, Race for inclusion: the experiences of Black, Asian and minority ethnic solicitors*
- Diversity Council Australia, *Cracking the Glass-Cultural Ceiling*

## 9

## SUPPORT THE RETENTION OF WOMEN THROUGH POLICIES AND SPONSORSHIP

Workshop participants generally agreed that the existence of policies to promote gender equality and support the retention of women did not in and of themselves guarantee success. Rather, these policies need to be understood by all members of a firm, championed by the partnership and implemented purposively.

In spite of most firms having some type of parental leave policy, qualitative research by the Canadian Bar Association suggests that women may be ‘covertly or overtly penalised’ on their return to work after giving birth.<sup>38</sup> One way to ensure women are not penalised is by encouraging employees of all genders to take parental leave and to support these employees on their return to work. Several workshop participants noted that they had introduced informal programs which involved HR checking in with returning employees. It may assist to make such programs more structured, including support and training before as well as after a period of extended leave. It would also be beneficial if this is not a task left for HR but involves the partnership of the firm as well.

The performance of those who have taken extended leave for caring or other reasons should not be prejudiced. Chief Executive Women gives the example of some companies with inclusive annual performance reviews (including pay review and promotion considerations). This means that those on extended leave, including parental leave, are not overlooked or disadvantaged in comparison to those that have worked the whole year.<sup>39</sup>

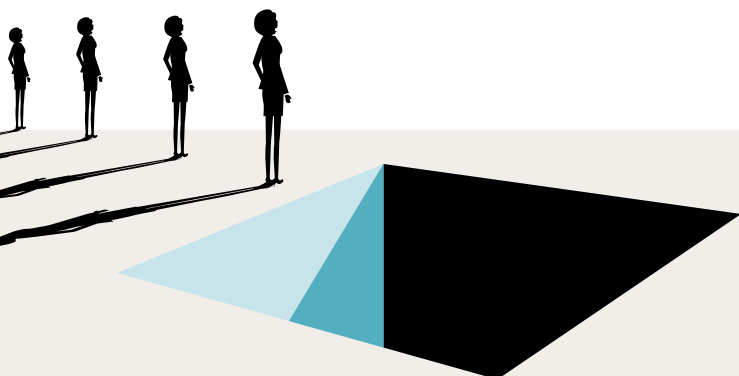
Another aspect to retention is sponsorship of women so that they gain the confidence and networks to advance by being exposed to business development opportunities and interaction with clients. Research shows that women are half as likely to have a sponsor than men. As noted by Chief Executive Women:

*To rise to the executive level, women may need more than a mentor or confidante. They may need for someone to publicly advocate for their career and give them opportunities to learn and grow. Formal sponsorship programmes for women are necessary to address the imbalance between men and women.<sup>40</sup>*

The report also identified the way in which sponsorship, particularly by senior male leaders, not only afforded high-potential women growth opportunities to prepare for leadership roles, but also made the sponsors more aware of women’s leadership potential.<sup>41</sup>

### KEY QUESTIONS FOR FIRMS TO CONSIDER

- How well are our gender equality policies embedded in the culture of our firm?
- In what ways do partners of our firm champion our gender equality policies?
- Does our firm have structured programs to assist women after a period of leave?
- Does our firm conduct inclusive performance reviews for those women that have taken leave?
- Do we offer sponsorship to high-performing women candidates in our firm?



#### Resources/Further Reading:

- WGEA, *Supporting careers - mentoring or sponsorship?*
- WGEA, *Parenting, work and the gender pay gap*
- KPMG Australia, WGEA, Diversity Council Australia, *She’s Price(d)less*
- World Economic Forum, *The motherhood penalty: How childcare and paternity leave can reduce the gender pay gap*
- Harvard Business Review, *A lack of sponsorship is keeping women from advancing into leadership*

## 10

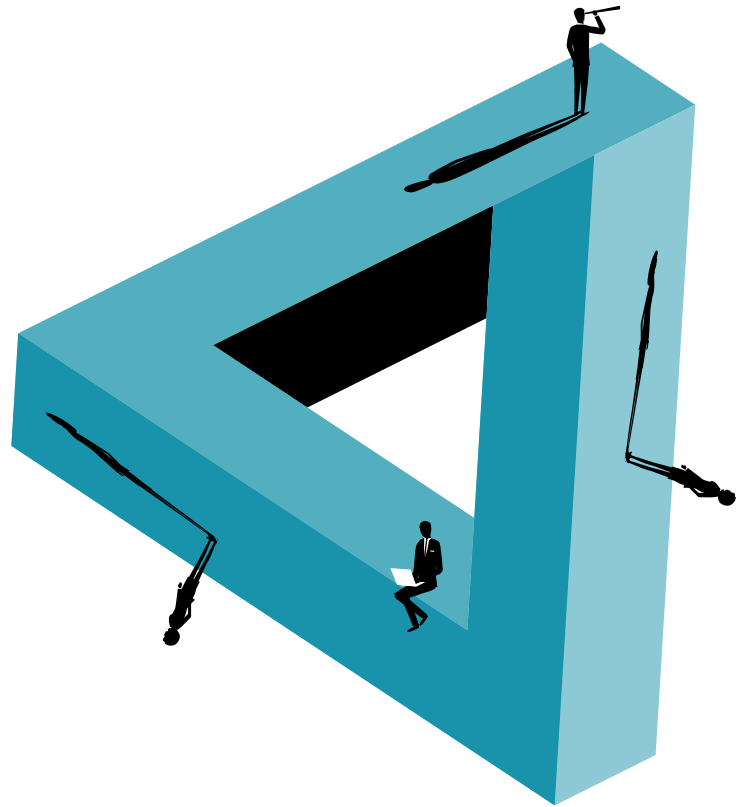
## COLLABORATE WITH CLIENTS ON GENDER EQUALITY INITIATIVES

Workshop participants agreed that collaboration with clients was a key way to increase a firm's momentum for gender equality efforts. Empirical research by Thomson Reuters in 2020 supports this view, finding that 'globally, close to three-quarters of law firms reported client pressure on firms to increase gender diversity had helped generate more momentum for their efforts'.<sup>42</sup>

In light of this, it made the following recommendation on collaborating with external parties to support internal efforts:

*It is recommended ... that firms take the lead in actively inviting this client pressure, by, for example, asking clients what their expectations are in terms of firms' approach to gender diversity at all levels of the firm, including in leadership roles. Then law firms can formalize these commitments to clients in meeting these expectations. Firms should also seek to counter the effects of their clients' unconscious bias against female lawyers by boosting the exposure and profiles of female lead partners, consistently fielding gender-balanced teams at all stages of the work-cycle, and promoting the benefits of the whole firm being agile in its working practices.*<sup>43</sup>

In some cases, however, the unconscious biases of clients may represent a challenge for law firms. The Law Council of Australia's National Attrition and Re-engagement Study (NARS) Report found that some women reported feeling less trusted by certain clients, citing examples where clients felt more confident working with male lawyers as opposed to women, particularly younger women.<sup>44</sup> In these circumstances, it is important for law firms to be part of the cultural change by showcasing to their clients the benefits of gender-balanced teams in achieving outcomes.



### KEY QUESTIONS FOR FIRMS TO CONSIDER

- How do we engage with our clients on gender equality?
- Do we understand our clients' expectations on gender equality?
- Have we promoted the benefits of gender-balanced teams and equitable briefing to our clients?

#### Resources/Further Reading:

- Thomson Reuters Institute, *Transforming Women's Leadership in the Law: Global Report 2020*
- Law Council of Australia, *National Attrition and Re-engagement Study (NARS) Report*
- University of Wollongong Australia, Legal Intersections Research Centre, Women Lawyers Association of NSW, *Advancement of Women in Law Firms: Best Practice Pilot Research Project*
- Berkeley Law, *Women in Business Law Initiative, Overview of Gender Diversity in Business Law*

## Endnotes

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