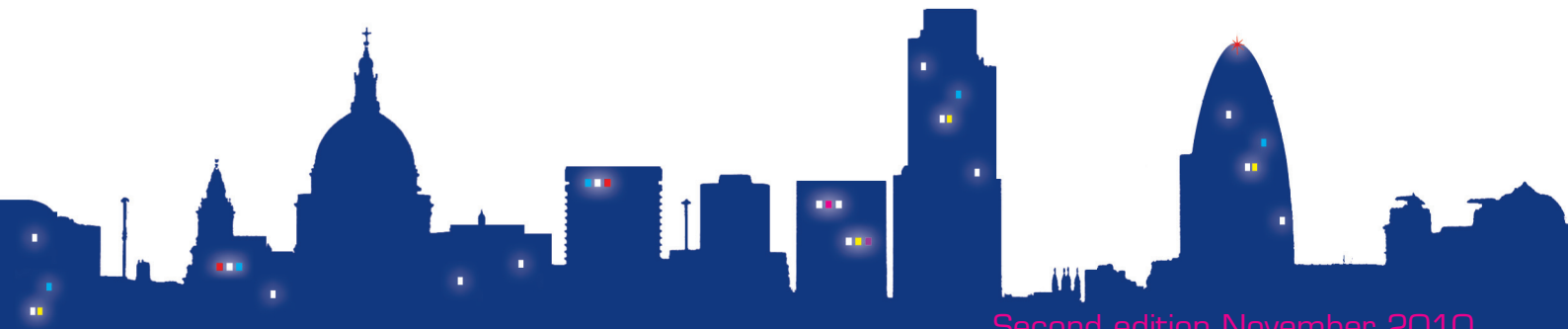




# Diversity

A best practice guide for City firms



# Authors and Acknowledgements

The City HR Association Diversity Working Party has prepared this updated guide to diversity in financial and professional services firms. The members of the Working Party were:

**Sarah Baverstock**, Societe Generale

**Fiona Bolton**, Eversheds

**Sarah Dunmore**, JLT Group

**Andrea Eccles**, City HR Association

**Natalie Godfrey**, BlueBay Asset Management plc

**Neil Johnston**, Field Fisher Waterhouse

**Ozlem Kulle**, Fox Williams

**Jane Mann**, Fox Williams

**Richard Neary**, Hammonds

**Elizabeth Newton**, Newton Whyatt

**Scott Noble**, Mercer

**Jan Ollis**, Besso

**Louise Redmond**, formerly Bank of England (Chair)

**Carolynne Ruffle**, City Pay Associates

**Gill Somerset**, formerly BNP Paribas

**Chris Syder**, Davies Arnold Cooper

**David Whincup**, Hammonds

**David Wreford**, Mercer

## Acknowledgements

Several other City firms shared their diversity practices and views with us. They have been named in the text whenever they have wanted this. Other advisory and consulting firms also shared their experience and best practice with us. Our thanks go to all contributors. We would like to thank John Benson, CEO, eFinancialCareers.com for the survey material contained in Section 1.

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# Preface

I am pleased to introduce our second best practice guide to diversity in the City. Our first Diversity guide was published in November 2008. It was well received in spite of the dramatic changes of autumn 2008. Arguably Diversity has become more important since that time. In September 2009 the Equalities and Human Rights Commission published its Financial Services Inquiry into sex discrimination and gender pay gap in the Sector. The House of Commons Treasury Select Committee investigation 'Women in the City' was published in April 2010 noting that some commentators believed that lack of diversity at senior levels in the sector had contributed to the crisis. Hector Sants, Chief Executive of the Financial Services Authority, has responded to such findings by placing high emphasis on the importance of the culture of City firms in managing the tricky performance/risk balance. He also cited diversity as a key aspect of the culture of firms in the sector. Hence from a business and regulatory perspective it was a good time for City HR Association to revisit best practice in Diversity in City firms.

The legal framework was also moving on apace as the 1 October 2010 saw the introduction of the Equalities Act; a major all encompassing piece of new legislation that provides the basis to all diversity policies and practices. Other developments such as the abolition of the default retirement age will have a significant impact on the workplace over the next few years. All of these developments are explored further in this guide

The true value of this guide lies in the extensive experience of the City specialists who wrote it. We also surveyed representatives from several City firms who offered candid views and shared their practical experience. What results is a unique product that reflects diversity practice in the City today. I hope you enjoy it and feel able to steal shamelessly from the ideas of others.

## **Louise Redmond**

Chair of the Diversity Working Party, City HR Association

November 2010

# 1 Diversity and the City - Issues and Challenges for 2011 and beyond

Back in 2008 we found that many City firms had a diversity strategy and plan. We had surveyed a diverse range of 15 firms to find out what they were doing and why. Sometimes the diversity strategy had been developed locally in London; sometimes it was part of a global group-wide strategy. However in each case the diversity agenda has been prepared to meet the highly specific business needs of each firm. Indeed unless the strategy improved business results it would get no support and would be left as a compliance and risk mitigation matter. All the firms we surveyed sought to make continuous improvements dependent on their own performance, on changing business needs and on feedback from their employees. Hence our impression was of a sector seriously committed to the business benefits of diversity.

Our challenge at the City HR Association Diversity Working Party was to update ourselves and to ensure we captured the latest best practice. In that way our 2010 guide would be useful to City firms for 2011 and beyond. This first chapter reviews recent developments and issues confronting the sector with regard to diversity. But first we go back to the basic principles and definitions that we agreed in 2008.

## **What do we mean by diversity?**

People differ in a myriad of ways – for example their backgrounds, education, experience and skills, their gender, religion, nationality and sexuality, and many more ways. We have taken diversity to capture all of these aspects and more; any differences that we notice in each other and that can potentially impact adversely the quality and quantity of work we can offer our employers. When different perspectives and energies are harnessed to meet the objectives of the business, performance and innovation can be high as well as the ability to meet different clients' needs. Some studies have shown that diversity produces clear business benefits such as the work done for Macdonalds Restaurants in the UK (not in the financial sector!) where it was found that restaurants with staff of a mixed age profile performed better than those with only younger workers. Another source is Professor Lynda Gratton's research that showed that teams of mixed gender (50:50) performed better than those which were all male or all female (Innovation Potential of Men and Women in Teams, London Business School).

Some practitioners like to refer to 'Diversity and Inclusion' and not just 'Diversity' in order to reinforce the point that it is how you treat different people and make them feel included that really matters. In other words, don't just recruit in lots of diverse people and hope that everything works out OK. However, throughout this guide we will continue to simply refer to Diversity but we mean both aspects.

The term 'diversity' can produce varied responses. For some it is an exercise in compliance or in political correctness such as learning what you can and can't say. For many City firms their understanding of diversity has moved forward considerably, with the business case self-evident and central to any strategy. Most firms want to achieve much more than just a regime of compliance. It is about utilising the skills of all for the sake of the business. It is about creating a culture of respect, and creating 'the best place to work'. It is about creating a competitive edge that sets the firm apart as an employer and as a provider of services to their clients.

One City firm in 2008 described diversity as "*getting managers to be more open in the type of individual they recruit (not just the same schools, backgrounds)*". One senior manager said that he had felt excluded when he had first come to interview at the bank because there so many pictures of Oxford and Cambridge colleges on the walls of the interview rooms. As he had come from quite a different UK university he assumed it was not rated highly by his potential new employer. He did pass the assessments and was offered a job and is now a member of the executive team. But perceptions are strong and feeling second class for many years was not helpful. This example is a good reminder that diversity affects people in so many different ways, not just with regard to the protected characteristics as defined in the 2010 Equality Act.

## **What are the reasons City firms give for having a diversity agenda?**

The City firms we surveyed gave us many good reasons for pursuing a diversity agenda. For some it fitted very well with the culture they wanted to create: "*to promote a supportive workplace, a welcoming environment where all employees are valued - treated with respect*"; "*to show that we a good employer who welcomes diverse talent*"; "*in order to operate as an industry leader it is essential that our employees in every location feel valued and engaged*"; "*leveraging of individual talents irrespective of gender, ability, race or sexual orientation*"; "*being responsive to the needs of employees yields more commitment to the organisation*".

Many other firms commented on the need to “*attract and retain talent and key skills*” clearly an expected outcome of the kind of culture described in the earlier quotes. As one HR head put it: “*It is essentially a business agenda, which produces diversity as a natural by product, rather than as a driver in itself.*”

No firm commented that they pursued a diversity agenda solely to avoid legal risk; it was clearly essential to them that there was a sound business need to introduce change.

## Did you know?

- 30% of London population is from a non-white ethnic minority (*London Development Agency*)
- Only 12% of FTSE 100 directors are women (*Cranfield Female FTSE report 2009*). In the US, 16% of corporate directors are women (*Catalyst*).
- Median hourly pay (excluding overtime) for fulltime workers who are women is 12.2% less than fulltime men workers (2009), a touch less of a gap from 2008 when it was 12.6% less (*ONS*)
- 1 in 5 disabled in the UK are unemployed but want to work compared to 1 in 15 non-disabled (*Employers' Forum on Disability*)
- 100,000 workers in the UK were forced to retire in 2009 (*Age UK*)

## Are there particular problems for City firms?

We wondered whether there were particular difficulties for diversity in firms in the City. Were these difficulties real or were they myths?

The City has its own stereotypes both from the past but also from the post-crisis world. The culture of City

organisations tends to be fast paced with long hours worked. Firms have high performance standards and little patience with those who don't make the grade, creating a faster turnover than many other sectors. All of the above can create a perception of a culture unreceptive to employees unless they "play the macho game". The general public is now aware of the heavy emphasis on high bonus pay, on tax avoidance strategies on behalf of employees and on very expensive litigation by employees for discrimination cases. Simultaneous with the criticism since 2008 of the behaviour of people working in the banks has been concern over the massive growth in the financial services industry over the first part of the new century potentially unbalancing the UK economy. There has been a lot for the regulators to consider.

### *Nothing New?*

Sir Isaac Newton lost a lot of money on his investments during the collapse of the South Sea Bubble. He had been appointed Master of the Royal Mint in 1699 which was a very well paid position. His niece claimed that he had lost £20,000 as a result of the collapse which is worth about £3 million in today's money. Ever the scientist, Sir Isaac declared: "I can calculate the movement of the stars, but not the madness of men".

## **Actions by the regulators**

With the spotlight on the financial sector over the last couple of years, City firms will need to face 2011 with a strong view on how they will develop their business cultures to meet the new criticisms. New business cultures will need to address the management of risk and behaviours that drive short term performance but unacceptable long term risk. This will clearly impact reward structures still under review at the global level and more specifically from Europe (EU Capital Requirements Directive 3) and further EU directives over the next few years) and from



the UK regulator, the FSA, which is currently under its own reorganisation and challenge to grow with more 'HR related' expertise. Questions under consultation as this guide is written include bonus instruments – whether equity, convertible bonds, cash, what deferral proportions and periods are required, and what clawbacks to impose including the buy-out of clawbacks by new employers. These are compensation matters but they are clearly seen by the regulators as key to the development of culture of financial services firms. Some governments have tackled compensation levels as well as structures for example through additional taxes and through control of tax avoidance mechanisms. Better diversity performance has been linked to the development of a new culture in the finance sector by senior regulators and politicians so it will be wise to stay in touch with what they have to say on the new cultures they wish to see in firms.

## Have you seen these quotes?

"A firm's culture plays an important role in influencing the actions and decisions taken by individuals within firms and shaping a firm's attitude towards their customers .... Acceptable cultures come in many forms .... In this context I would like to recognise the importance of diversity in contributing to a positive culture.....The importance of promoting diversity has been recently recognised by both the Treasury Select Committee's report on gender .... and in the Financial Reporting Council's new UK corporate governance code. Their new code expressly provides that due regard must be had to the benefits of diversity on the board." *Hector Sants, Chief Executive, Financial Services Authority (FSA). Speech to the Chartered Institute of Securities and Investments Conference, 17 June 2010.*

"A firm's entire risk adjustment process should be driven primarily by a culture that champions and encourages strong risk management practices with a robust policy framework. This culture should be driven from very top levels of management. It should support effective controls and governance and an open attitude towards the regulator." *FSA, Revising the Remuneration Code July 2010.*

Guidance from the FSA in Principle 12 in relation to performance measurement and appraisals:

“Non-financial performance metrics should form a significant part of the performance assessment process and should include adherence to effective risk management and compliance with the regulatory system ....

*Poor performance in non-financial metrics such as poor risk management or other behaviours contrary to firm values can pose significant risks for a firm and should, as appropriate, override metrics of financial performance”.* (City HR Association italics)

## **Gender diversity in the financial sector – findings from the Equalities and Human Rights Commission**

During 2009, the Equalities and Human Rights Commission (EHRC) sponsored a thorough analysis of the Labour Force Survey and the Annual Survey of Hours and Employment both of which are routinely produced by the Office of National Statistics. The research was published in the Spring of 2009 by the EHRC (Research Report 17: Employment and earnings in the financial sector: A gender analysis by Hilary Metcalf and Heather Rolfe of the National Institute of Economic and Social Research). It found that for full-time employees gender pay gaps in mean gross annual, weekly and hourly pay in the finance sector range from 39 to 55 percent, around double those in the economy as a whole. Interestingly but not heavily highlighted by the authors, the gender pay gaps tended to be very low at the lower paid end of the distribution but very high at the top paid end of the distribution. Hence it is the pay gap between the best paid 10% of the male workforce that is paid massively better than the best paid 10% female workforce. Pay in the financial sector is heavily leveraged (think about various bonuses and performance incentives – cash and equity) and much more so than most other sectors and particularly the public sector which makes up such a large share of total UK employment. Hence as men dominate the top of banks, fund managers and insurance companies it is perhaps not so surprising that the gender pay gap is particularly high in the financial sector, particularly when crude averages are quoted.

The EHRC had also used its statutory powers in early 2009 to compel a sample of firms in the sector to provide pay data to its Financial Services Inquiry which focused on the gender pay gap in the sector. This Inquiry was published in September 2009 and quoted the Metcalfe and Rolfe research that average full time annual gross

earnings (i.e. including bonuses and overtime – typically men work more overtime than women in all parts of the economy) was 55 per cent compared with 28 per cent in the economy as a whole. Data collected by the Inquiry found that the gender pay gap for average annual total earnings was 47 per cent, hence a touch lower than the Metcalfe/Rolfe findings but still obviously large. Data collected on the gender gap for performance-related pay elements was 80 per cent hence highlighting a key root cause of the overall pay discrepancy. This clearly illustrated the point that men tend to dominate in the senior positions or trading and other revenue-generating positions where bonus potential is much higher than for other occupations in the sector.

The sector has taken these findings to heart in spite of disagreements on data collection methods and on comparator measures. The main findings pinpoint the lack of female career progression into and within the higher earning parts of the sector.

During the course of 2010 City HR Association has been pleased to hold a number of meetings with the EHRC in order to review their 2009 findings and recommendations for action. During our meetings the EHRC told us about the changes they would like to see in the financial sector in order to address the gender equality issues they surfaced in 2009. Their recommendations included:

- The EHRC was keen to see board level commitment in the financial sector to diversity for example through discussion of women's progression rates within their firms and any actions that firms intend to take to improve matters. One of the assumed benefits of greater transparency is the effect it will have on people throughout the organisation, alerting staff at all levels to the issue and thereby encouraging them to take their responsibility for addressing it. The EHRC was keen to have the tone set at the top so that the importance of diversity would percolate throughout the organisation.
- The EHRC have also expressed an interest in the various practices they had come across within financial sector firms to improve the support offered to working parents and how this might impact women's progression. They noted that the average age of employees in the financial sector was relatively low and hence a significant proportion of male and female employees were balancing family caring commitments. The support given could be more than just enhanced maternity and paternity leave but also coaching to help women plan their return to work after their leave, and guidance to managers on considering the flexibility that might be needed by parents.

- The EHRC made clear to City HR members the central importance of transparency about pay at all levels in the firm in tackling the gender pay gap. This was a key part of EHRC policy and although initially developed under the old Labour government would continue under the new coalition government. Hence the EHRC placed a great deal of importance to gender pay reporting and were interested in ways in which the financial sector might choose to measure and report on the gender pay gap under the new voluntary regulations. This should be addressed for all employees not just those in a talent pipeline or upward trajectory.

City HR Association's consultation and discussion with the EHRC on their findings and emerging recommendations surfaced the following points:

- Annual compensation processes are extremely rigorous, robust and lengthy with very many checks and balances against agreed performance metrics. Most employees are probably not aware of the process but they are probably aware of the time it takes for senior management to complete the compensation round. Members report that in some cases, detailed discrepancies with regard to time off on maternity leave or pro-rating for part-time hours are if anything rounded up in favour of the female employees. Hence the perception of City HR Association members is that lower bonuses or performance-related payments are not due to the whim or bias of individual line managers or women's apparent reticence to ask for a big bonus. The gender pay gap problem is more likely to be caused by the kinds of roles women take on or perhaps in the loss (unnecessary?) of progression speed due to more career breaks and the challenges in starting up career breaks after coming back from leave.
- Methods such as job evaluation which are commonly used in industry only work in some parts of the financial sector as job size is irrelevant for many financial sector workers particularly in comparison to measures such as contribution to fee generation. Rigour needs to be introduced through performance metrics such as fees generated not to job size metrics in many parts of the sector.
- Pay transparency is not practised by the sector to the same degree as perhaps it is in some other sectors of the economy, particularly the public sector. Pay decisions are market and performance driven and any differences between employees are extremely complex, difficult, time-consuming and sensitive to explain. Hence the preference is not to publish any aggregate or individual pay data other than that required by the UK Corporate Code or other international codes. Managers of City firms do not want to introduce any more transparency on pay for fear of the unhelpful distraction it would cause. Others are concerned how aggregate

pay statistics could be used against them as outsiders might make adverse comparisons when not justified by the data. This activity would be seen as a distraction to business and of no benefit to business performance. In the City HR benchmarking survey only 16% of firms carried out equal pay audits, for example.

- There was a lot of commitment to further support for employees who are parents and carers, and some firms have initiated new programmes to provide coaching and other assistance to facilitate return to work after maternity leave or other issues parents face.
- Many in the sector held annual discussions at board level on diversity metrics, progress and actions, including reporting on such matters in their annual reports and wanted to continue this practice to ensure they got sponsorship from the top.

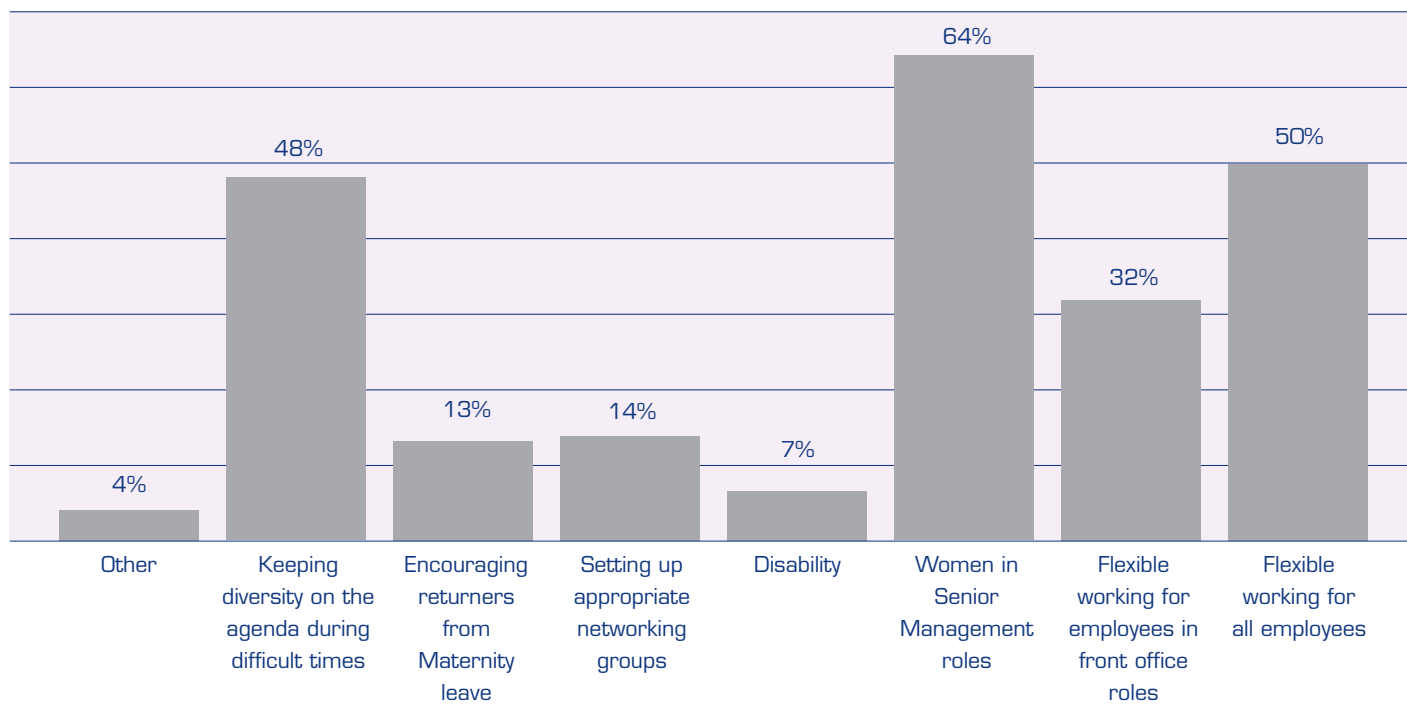
However it must be said that many City HR Association members are sympathetic to the culture and diversity challenges posed by the regulators in spite of their concern about some of the remedies recommended. Members are concerned to improve the diversity of their firms and to ensure that all employees regardless of background are welcomed and able to flourish in the working environments they offer. They are keen to make further gains and to accelerate progress.

In particular, City HR Association members are committed to improving women's careers. The City HR Association 2010 benchmarking exercise revealed that the most commonly mentioned diversity issue was getting women into senior positions with 64% of respondents selecting this answer; the next highest response was introducing flexible working with 50% of respondents selecting this as an important issue (respondents could choose more than one answer). A graph illustrating the most challenging diversity issues is depicted on the next page. The second priority of introducing flexible working arrangements had been the most mentioned priority in the 2008 benchmarking survey. It is possible that some firms have implemented flexible working policies in the last two years and are now looking for some tangible results in the shape of greater female progression.

In our 2008 survey, City firms listed priority concerns as: "women returning from maternity leave"; "managing multiple flexible working in one department or team"; "flexibility for all"; "promotion of flexible working on the global stage; increase the proportion of women in senior roles". Women more often than men want to work flexibly, and more chose career paths that take them out of the fast track to the top – these jobs can then get labelled as the "mommy track". Even short breaks such as maternity leave stump many managers – how are they going

to service clients while she's away, should they disrupt clients again when she returns to give them back to her? Hence, a series of breaks in her career can leave a woman in a job with lesser prospects for advancement when she is ready to return to full pace, full-time work. It is this ability to continue a career after breaks for maternity leave that has become critical to address.

### What issues do you see as the most challenging diversity issues in your organisation?



However, as family life in our society develops City firms are seeing more interest in flexibility from male employees for example new fathers. This may be leading to the growth in policies for “working families” at many City firms. Men are included in such debates as their caring needs can then be taken into account. Some firms note that men tend to demand informal flexible arrangements from their line manager e.g. coming in late one morning to attend a school assembly. It is still women who are asking for more formal arrangements such as part-time working. However every family is different and flexibility is key.

## Highlights from survey with eFINANCIALCAREERS.COM

A recent City survey conducted jointly eFinancialCareers.com and the City HR Association in September 2010 yielded 816 responses from readers of the eFinancialCareers.com site. Entitled “What do Employees Want” the survey explores how male and female workers feel about their career, pay and bonus, worklife balance and related organisational policies and management practices. The survey also explored whether employees were making concessions to their pay and career in order to accommodate worklife balance or outside interests, such as childcare, looking after dependents and time-off to pursue hobbies and personal interests.

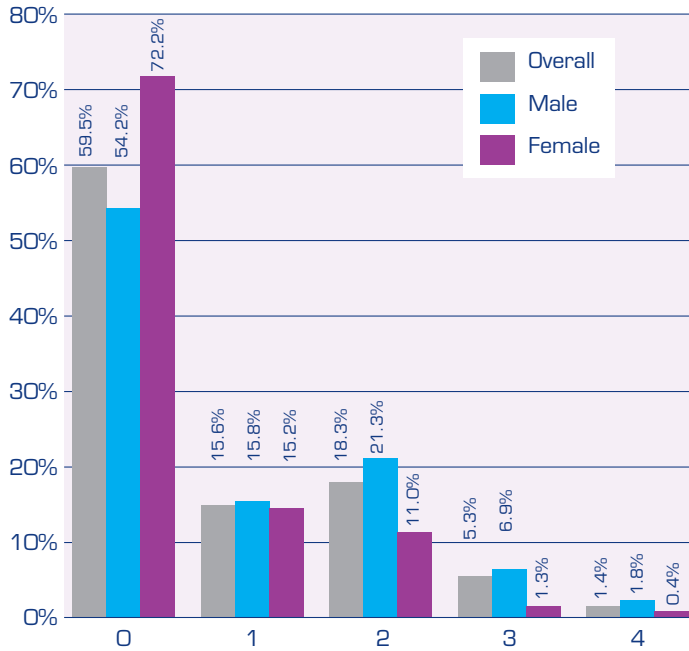
The findings are really interesting as past surveys have been organisational driven to find out how women fare against men in the workplace. The reverse approach was adopted here as the survey went to employees and job seekers direct to find out what they want from employers.

### Setting the Scene

In order to put the findings in context it should be stated that out of the 816 responses 70% were from men and 30% from women. To set the scene, respondents gave their gender, age and the number of dependent children as follows:-

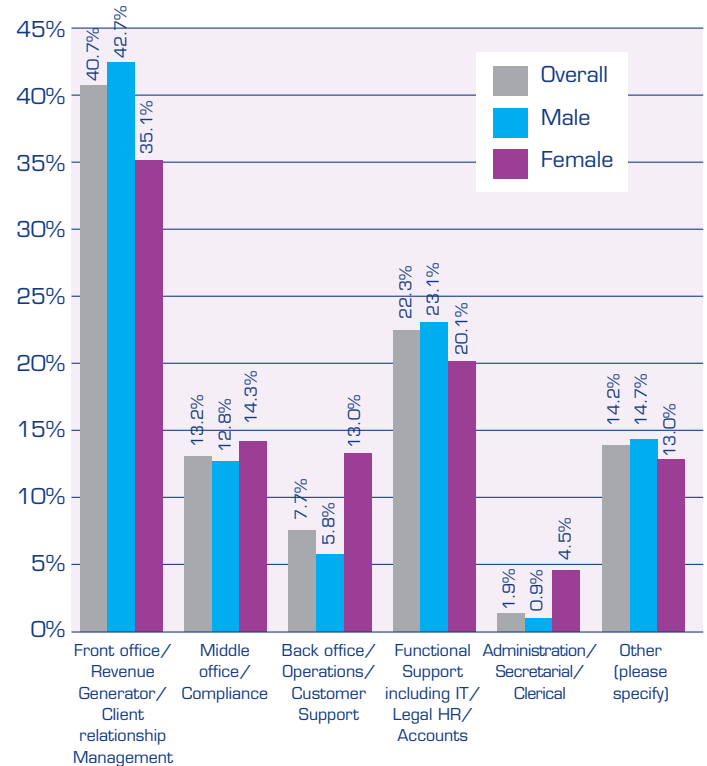
- 61.3% of employees were in the 20 to 39 age category (58.3% male: 68.4% female) with 27% falling in the 40 to 49 category (28.4% male: 24.1% female) and 11.6% falling in the age 50 and above category (13% male: 8% female)
- 59.5% did not have children (54.2% male: 72.2% female). Of the 40.1% who did have children, the number in their family is depicted Graph A below.

## How many dependent children do you have?



Graph A

## Which role sector describes your current position?



Graph B

- The majority of respondents (74%) were employed in the City/Financial Services with 76% being male and 66% being female. Those seeking jobs in the City were also important to the survey (26%) as indicators of “what employees want” when looking for work, including any concessions they may make to achieve flexible working and worklife balance.
- In terms of roles undertaken, 40.7% were in the front office (42.7% male: 35.1% female), with 20.9% in the middle or back office (18.6% male: 27.7% female).

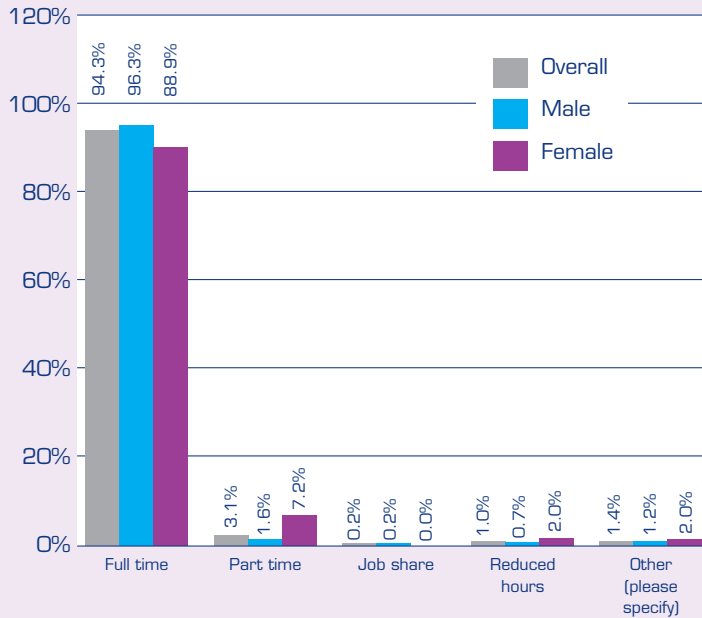


## What did the survey find?

Of the 74% currently working:-

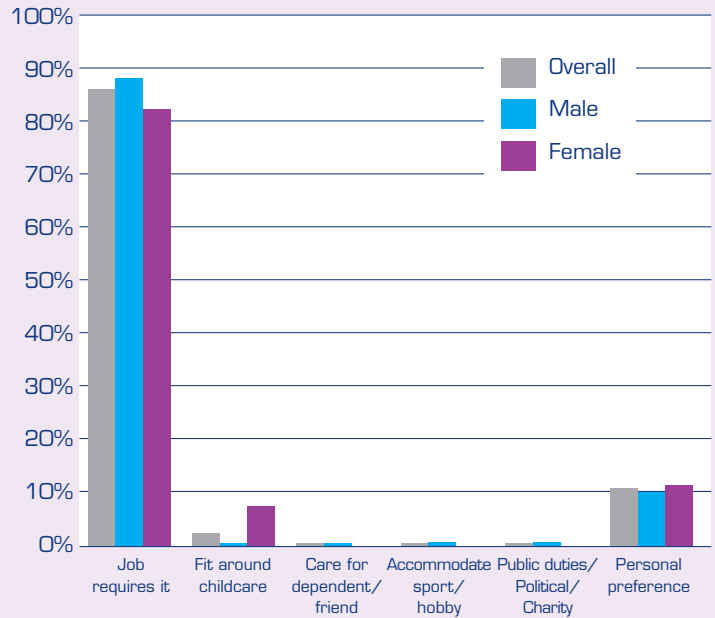
- Hours of work were mainly full time (almost 95%) with 96.34% being male and 88.9% being female (see Graph C below). There was a correlation with a benchmarking survey conducted in August 2010 with City HR members, in which 65% of organisations surveyed employed below 4% of their workforce on a part-time basis.
- The reasons for working these hours are depicted in Graph D below with almost 90% saying that the role requires their full time attention and the remainder to fit around childcare or by way of a personal preference. The graph shows the split between male and female

### What hours do you work?



Graph C

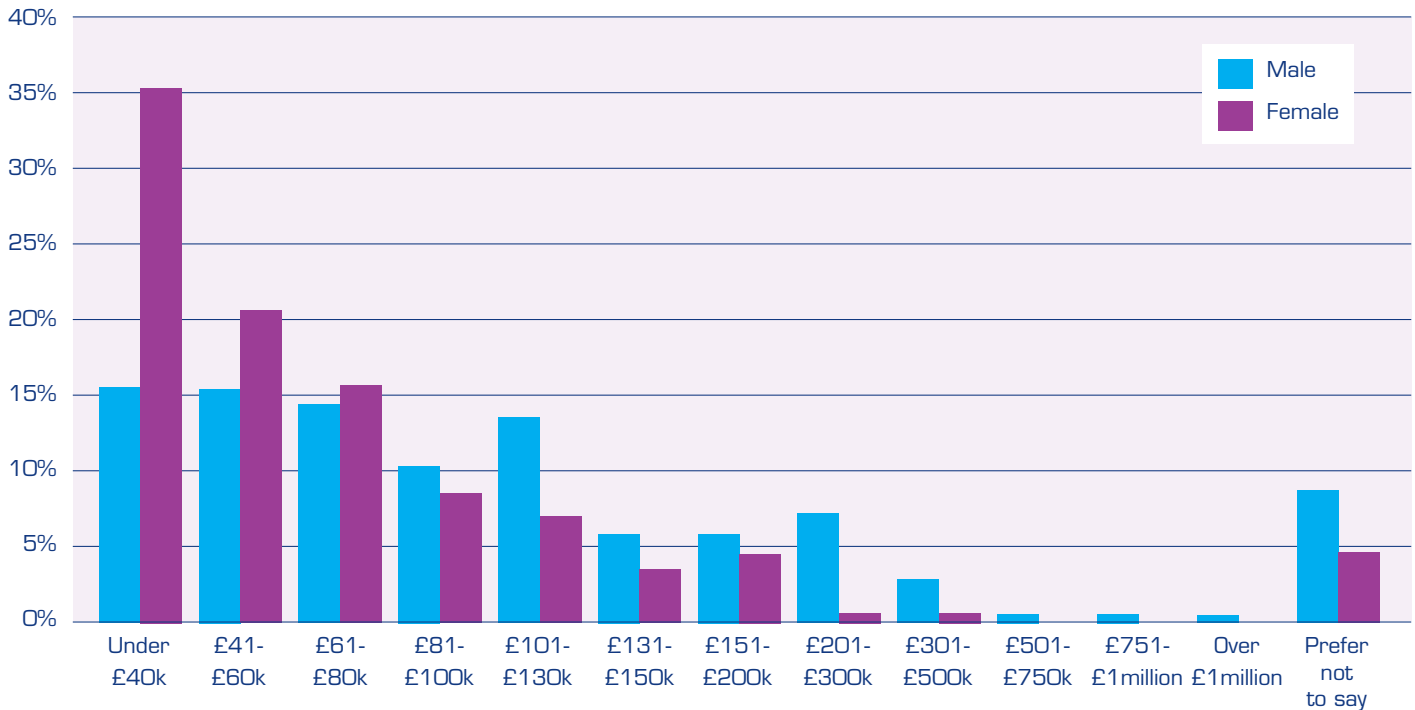
### Why do you work these hours?



Graph D

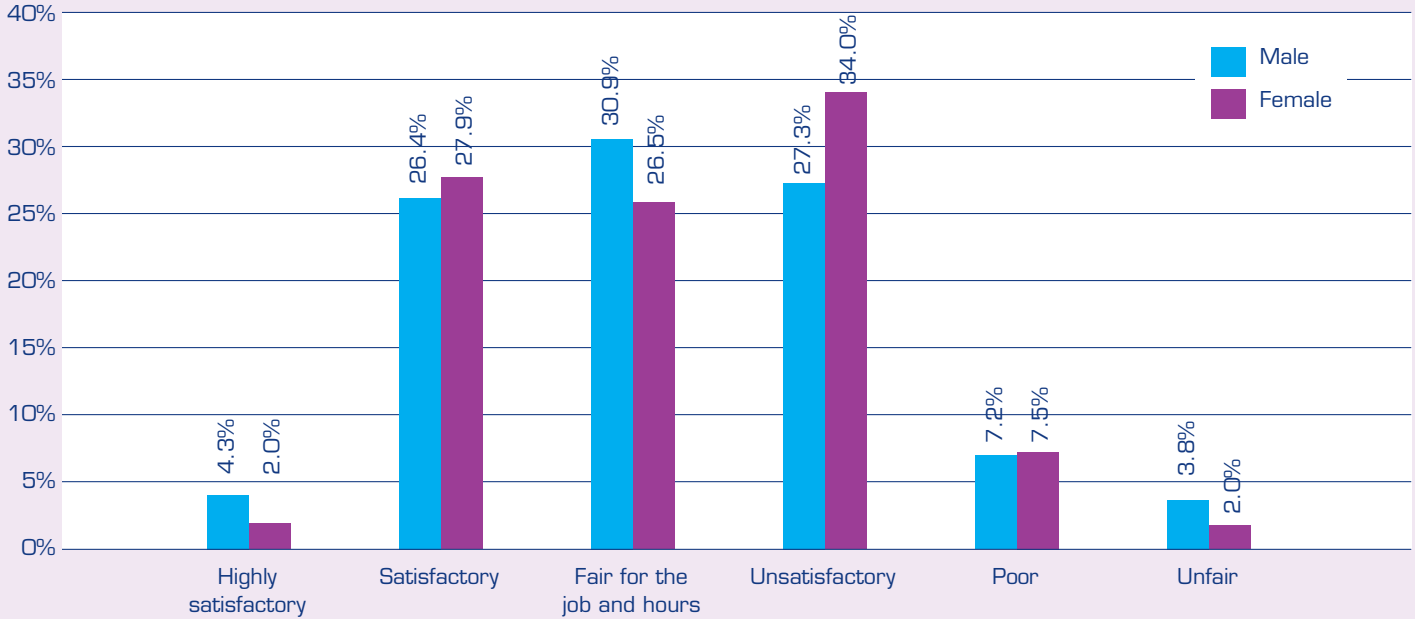
- Compensation was skewed with more women in the lower bands of under £40,000 per annum total compensation (ie included bonus) and the £40,000 to £80,000 brackets. Around 70% of female workers accounted for these bands compared to 44% of male workers. Graph E refers. However, when asked to say how employees ranked their total pay, almost 57% of women were satisfied or more with their pay compared to 62% of men. (Graph F).

### Which total compensation band do you fall into on a full time equivalent?



Graph E

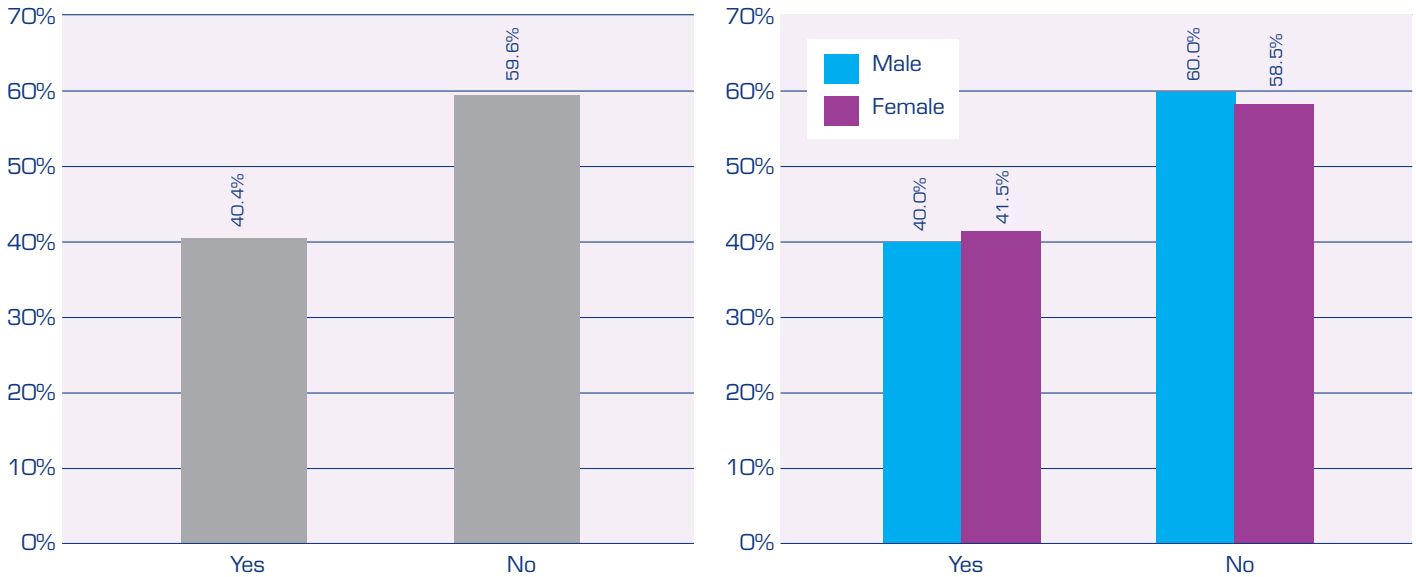
## How do you rank your total pay?



Graph F

- Compromises made to achieve a more balanced life, the male and female respondents were almost equally matched between the genders with 40% saying that compromises had been made and 60% saying they had not, as depicted in Graph G below.

### Have you made any compromises with your role or salary to achieve a more balanced life?

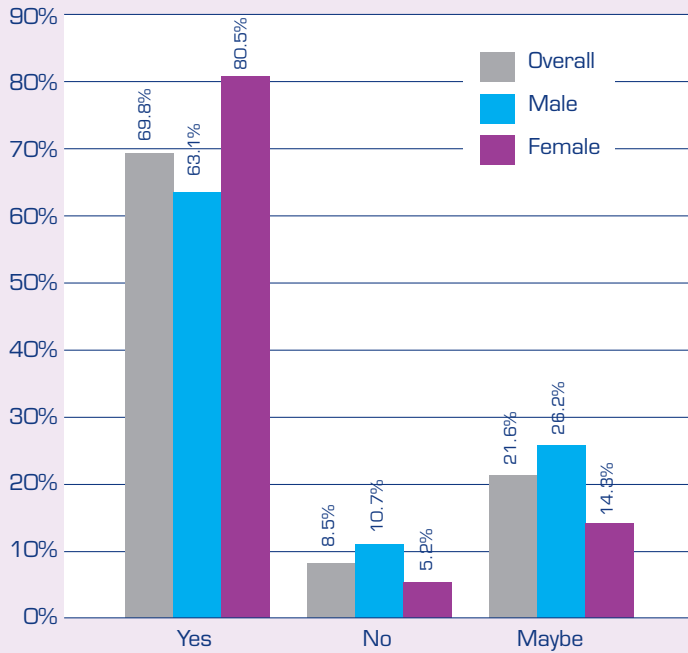


Graph G

Of those seeking a new job in the City and those currently employed, individuals would make compromises to achieve a more balanced life:

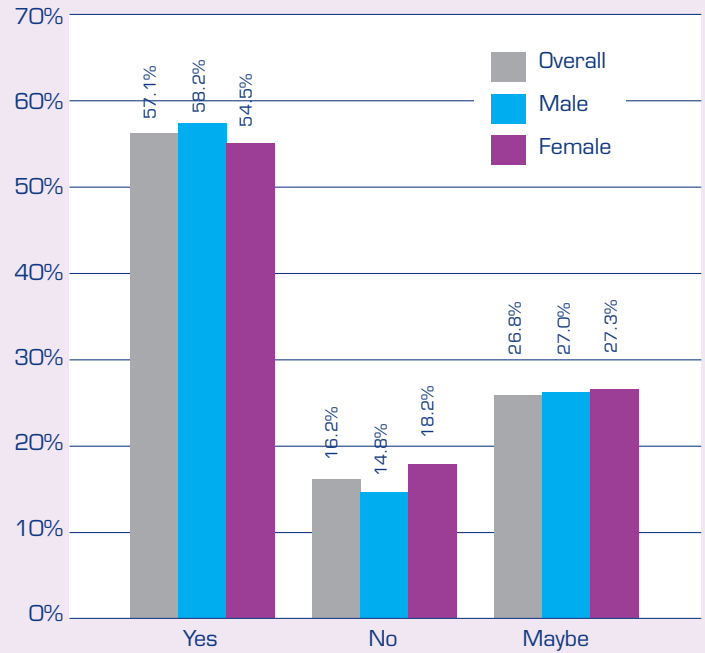
- Almost 70% said that they would factor worklife balance into their job search (63.1% male: 80.5% female), with this being marginally more important to the female population. Graph H refers.
- This compared to 51.7% of employed and unemployed workers who said that they would make compromises to their pay or role to achieve a more balanced life as depicted in Graph I.

### Will factor in work/life balance?



Graph H

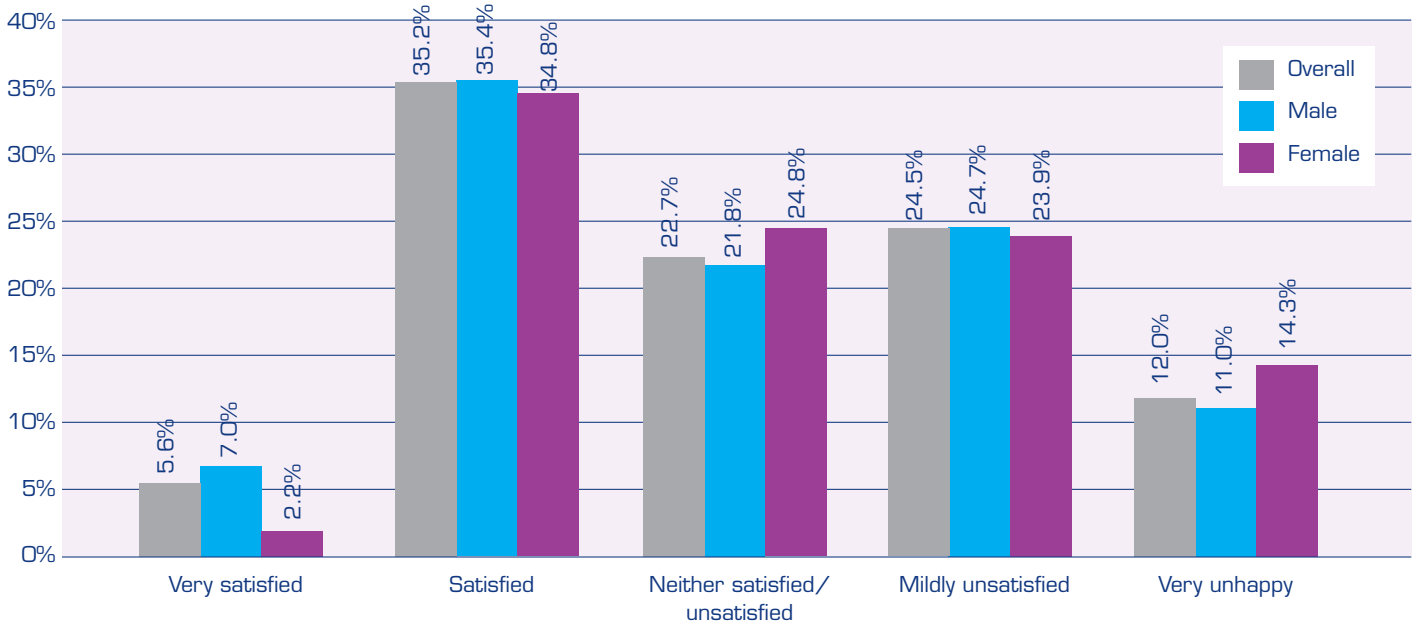
### Would you make a compromise on your next role or salary to achieve a more balanced life?



Graph I

- Career Progression was a problem for 37.5% of respondents, where Graph J shows the split between male and female respondents, but overall the majority of employees in both sexes were content or above with their career progress.

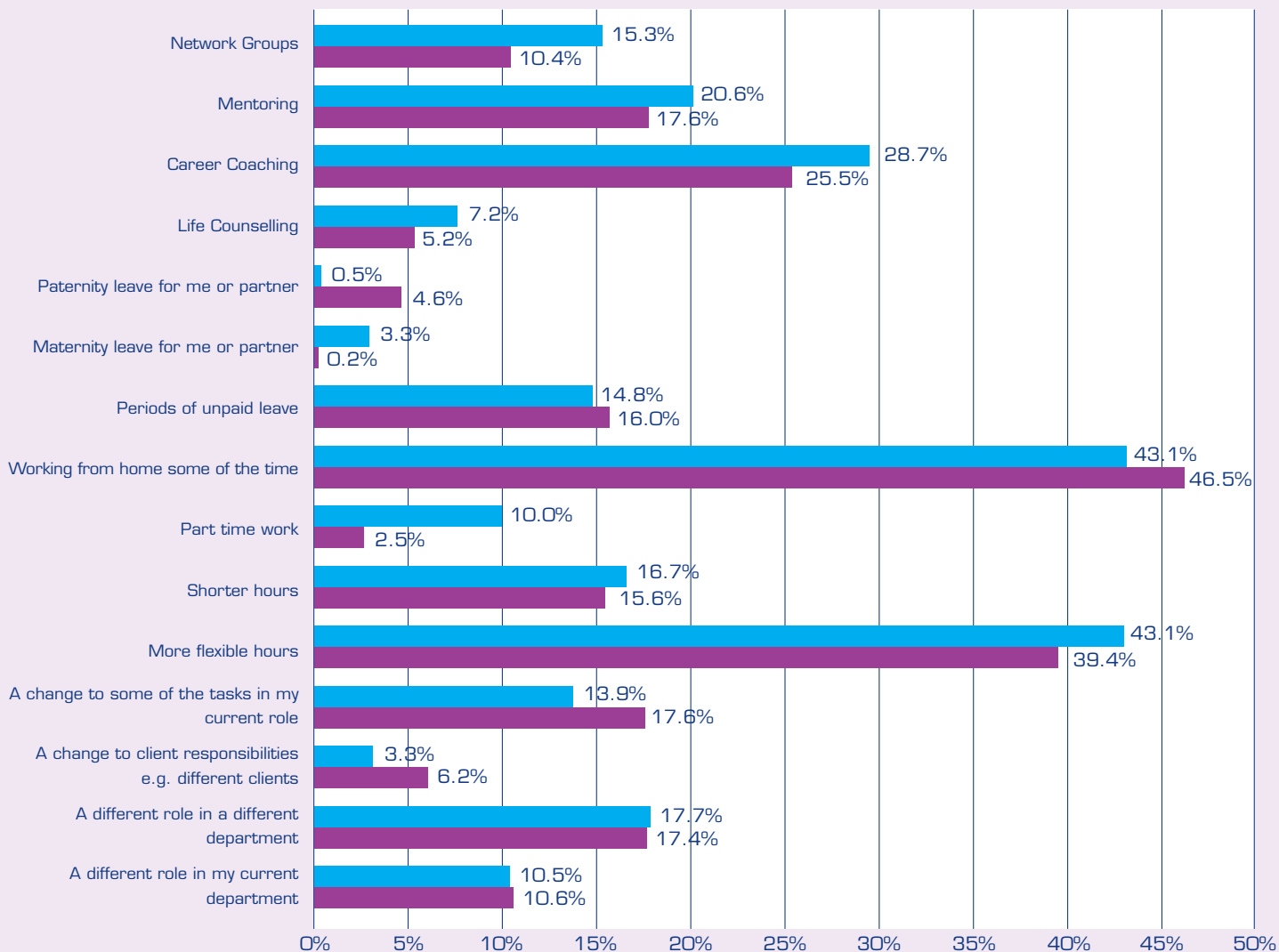
## How do you feel about your career progression to date?



Graph J

- Organisations could be doing more to help employees to balance their work and outside responsibilities as depicted in Graph K. Much of this is probably around the communication of their flexible working policies with greater opportunities to work from home being at the forefront of all respondent's minds.

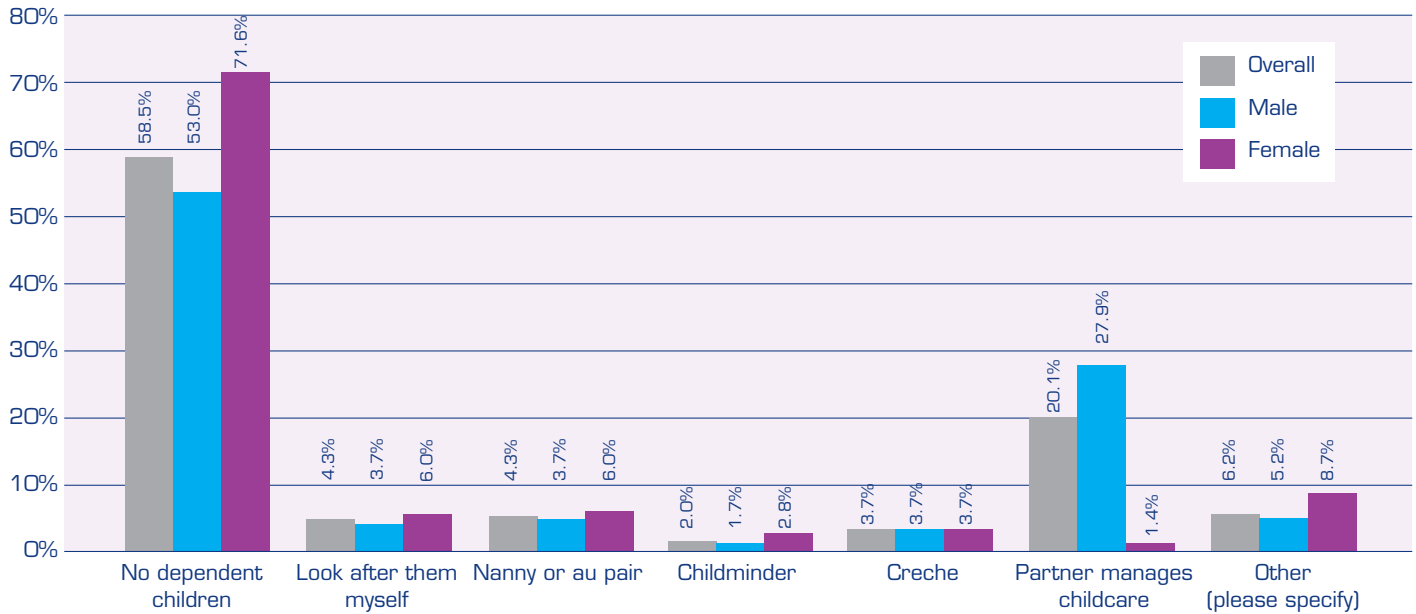
**Which of the list below would you find most useful from your employer to help you with your outside work activities over the next year? (Tick 3 boxes)**



Graph K

- Childcare, and the way in which employees manage looking after dependents was also an important element of the survey. For those that did have children (and an earlier part of the survey results showed that a high proportion did not), the majority had a partner who provided the childcare. There was a big difference between the number of men whose partner looked after the children (29.7%) versus the women whose partner provided the childcare (1.4%) as reflected in Graph L.

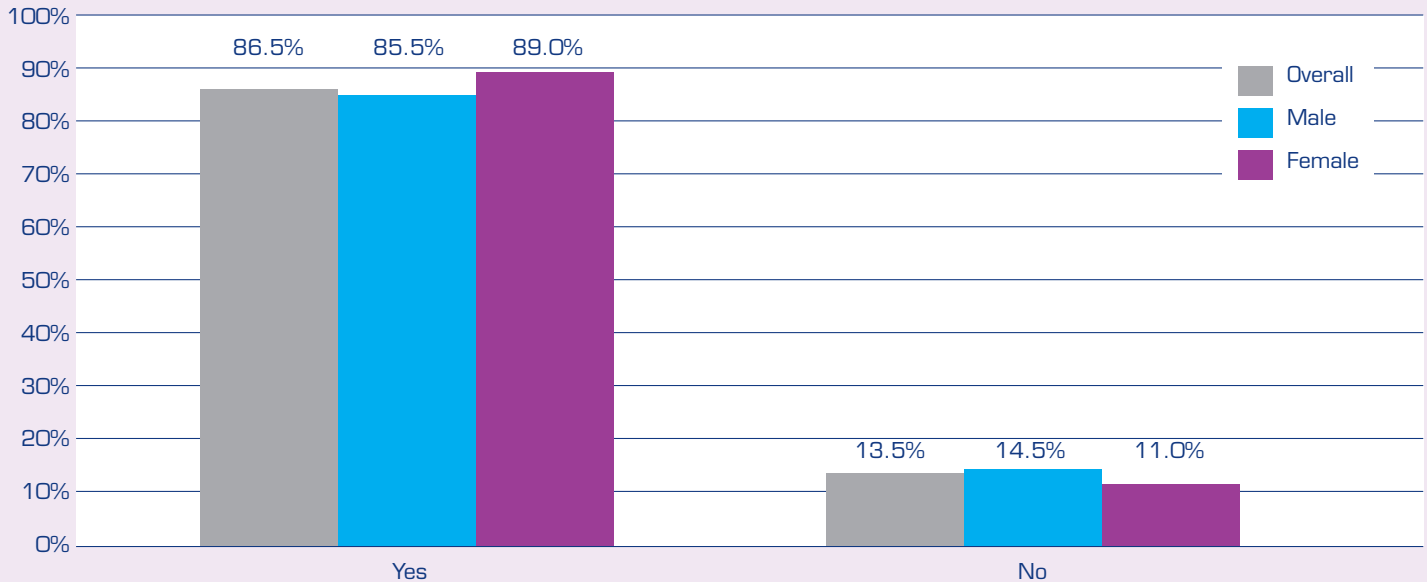
### If you have dependent children, how do you manage childcare?



Graph L



## Do you/did you enjoy working in the City or in the wider financial and professional services community



Graph M

- Overall the vast majority of respondents are happy working in the City and the wider financial services or professional services community. The big surprise in this survey was that female workers expressed more happiness than their male counterparts (Female 89%: Male 85.5%) as depicted in Graph M.

## What do these results show?

The majority of respondents are happy working in the City. The response rate was just over 2/3rd male with almost 1/3rd female of which a large proportion were in front office jobs working full-time, to meet the requirements of their job. On the whole, women were in the lower pay brackets for salary and bonus than men. 40% of the total population had made compromises to their pay and job role, with 51% being prepared to do so in the future. Women were still more likely to provide childcare with a small number of men being the prime carer.

The majority of people (almost two-thirds) were happy with their career progression and this was equally balanced between the sexes. However, work life balance has taken on greater emphasis for male and female workers with 51% of the total population saying they would make concessions to their pay or role to make an improvement in this respect. A number of recommendations were made by respondents as to how organisations could increase worklife balance opportunities, and with improved flexible working policies being evident from the recent City HR benchmarking survey, organisations should consider how they can better promote this internally.

Perhaps an overriding feeling gained from this survey is that employees of both gender are not unhappy with their lot. There has been a lot of negative publicity about the gender pay gap, career progression and pay, yet employees seem prepared to make compromises to achieve a more balanced life and as a consequence many are content with where they stand. Whilst it is still onwards and upwards with regard to the equality agenda the missing dimension seems to be that employees of both sexes would welcome taking greater control over their work and balanced lifestyle.

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## A multitude of diversity issues

It is perhaps not surprising that, with the series of reports on gender issues in the sector City firms are placing greater emphasis on gender diversity. However it only scratches the surface of how diverse the working population in the City really is. The City workforce reflects the diversity of the capital itself; one firm with approximately 2000 staff has 46 nationalities within its offices and over 50 different native languages are spoken in the London area. With caps on immigration numbers and potentially unattractive remuneration terms and tax treatment, it is possible that national diversity may diminish. However, the significance of London as a key global location in the financial sector is so large that employing short and long term immigrants from many countries is likely to remain the experience of most City firms.

Addressing another aspect of diversity, age, there are indications within the current workforce that individuals are extending their working life in the City. Previous trends have indicated that many who worked in the City made a conscious decision at a certain age to move away from the “rat race” and work closer to home; the journey was often tiring and the demands upon the individual within the workplace do not lessen simply because an employee is becoming older. The City has a history of a long-hours culture. Unless you participate in this, you are not likely to be going anywhere careerwise. However technology has helped to change working arrangements (at least for some jobs) and as flexible working arrangements have been introduced in a large number of City firms it may have reduced the need for commutes on some days. The 2010 City HR Association benchmarking survey showed that 74% of City firms allow “work from home” days, for example and this will undoubtedly help anyone with a long commute.

Recent downturns in the economic environment are also resulting in decreasing pension fund values – whether you are male or female; there is no discrimination here. We are likely to see older people wanting to stay in jobs and not be prepared to step aside to let a younger person take the job. The coalition government has announced its intentions to remove a default retirement age from October 2011. Iain Duncan Smith MP, newly appointed Secretary of State for Work and Pensions addressed City HR Association members at our AGM in June 2010. He inferred that it was up to employers to manage ways in which individuals could elect to work beyond 65 using their talent, expertise and experience in a way that is mutually beneficial. Hence it is quite possible that an increasing number of employees will choose to stay beyond their firm’s pension age whether out of interest or the need to supplement pension. City firms are used to having a relatively young workforce but this may change.

In conclusion, there are a multitude of diversity issues that the City faces. Many of these issues are the same as those faced by other sectors of the economy. However, the City experience is different from other sectors in the UK for a number of reasons. For one, the sector employs a fusion of different races and nationalities. Many firms have head offices overseas which shape corporate cultures and UK operations. The long hours culture make it particularly important to address diversity issues successfully particularly for those with caring responsibilities. The bailout of the banks, the levels of pay in the sector and the scale of the sector have also focused the spotlight on behaviours, policies and practices in the sector. Some have suggested that greater diversity could have impacted behaviours to the extent that financial innovation and some of the causes of the crisis could have progressed differently. Hence on the City HR Association Diversity Working Party we concluded that there were indeed specific issues for City firms to address.

## 2 What have City firms been doing about diversity?

What have City firms been doing on diversity over the past couple of years? There are of course many diversity issues and each plays out differently in each firm depending on ownership, business streams, geography, etc. In 2008 many City firms had comprehensive diversity plans and had made significant progress in implementing significant initiatives. We found that many firms had strong support from senior management who often took on responsibilities to lead the diversity work or some aspect of the diversity programme. Many firms ran active and enthusiastic employee networks for example for female employees, for gay/lesbian/bi-sexual/transgender employees, for employees with a disability or concerning particular themes such as working families or internationalism. There had been a considerable amount of training in diversity and diversity-related issues for managers or indeed for all employees. Some firms organised diversity weeks where many open sessions and seminars were held to engage employees in a very wide range of diversity issues. One big firm had record turnout to these sessions as the markets dried up and trading was light in the weeks after the Lehmans collapse. In every case the business imperative was at the top of the agenda: globalisation drove the need for cross-cultural working and greater inclusion of people from many ethnicities and religions, shortage of talent drove the need to retain more women and to accommodate more people with disabilities; a relatively youthful workforce drove the need to accommodate working parents and those supporting older relatives.

“At Société Générale, our people are our strength. We pride ourselves on bringing together the talent of our employees from different cultures, nationalities and genders with their different experiences, opinions and beliefs. With representation in over 80 countries, we not only respect the value of diversity but actively encourage a workplace which ensures that everyone is treated fairly and with dignity and respect. We constantly strive to provide our employees with an environment that epitomises our three core values of team work, professionalism and innovation. By drawing upon the best talent from around the world, we harness the significant value that diversity can add to our portfolio of businesses knowing that decisions are made on the basis of aptitude and ability.” Nigel Holmes, Managing Director, Head of Human Resources for EMEA, Societe Generale Corporate & Investment Banking.

Many of the firms we surveyed did not view what they had done as exceptional or special. To a certain extent they were working hard to keep up with competitors and to taking a leading position if they could, particularly with regard to recruiting successful individual women and minorities. Diversity managers across some parts of the financial sector networked together effectively and shared good practice in the hope that combined efforts would achieve greater overall impact. Many City firms were proud of what they did on diversity but did not necessarily wish to showcase their efforts. They just needed to get it done. However it was clear that many of their efforts were indeed worthy of a “best practice” label whether or not the initiatives were entered for the many awards on offer.

And yet, the statistics as to who worked at each level in the sector had not improved all that much. Women employees at City network meetings would often comment that things had indeed improved since they first joined the industry 10, 15 or 20 years ago. However, there was still a lot that needed changing. Some jobs were still not doable if you wanted some time for your family. You wouldn't get your old clients back when you returned from maternity leave making it harder to build up a new set of clients and hence years of lower bonuses and slower promotion. The firms' retort that these are the firm's clients not the individual employee's whilst self-evidently true didn't help matters.

Below are the practical actions that City firms have been taking over the last few years to improve the diversity of their workforces

## **Networking Groups**

Some City firms have established in-house Networking Groups that enable interested employees to identify the issues affecting this population and to recommend remedies. The network groups often become support groups and are hence beneficial in themselves. One bank noted that the existence of a women's network, for example, had increased some women's commitment to the firm according to an internal survey. Parenting groups or groups for working families have also emerged in recent years. Many report that engaging male employees particularly senior male employees can make a significant impact on the culture of the organisation. If one or two senior men are known to work flexibly or to participate in working families groups this can encourage other working fathers to speak up about their own needs. The need for senior male acceptance of diversity issues seems particularly important in the financial sector.

## Citi – Parents Network

Citi has focused on developing policies and practices that create an inclusive and family friendly organization within the UK business. A key element is a thriving Parents network with approx 700 members, lead and run by volunteers. The network offers support and help for employees with all stages of parenting. This is achieved through regular workshops and auditorium sessions covering everything from baby first aid to advice on University entrance.

Furthermore, Citi has an impressive 97% Maternity Return rate, achieved by a well structured Maternity Policy. This is mainly due to Coaching Workshops for Women which happen at three stages of Maternity; before leave, mid-leave and post return. All Line Managers of pregnant employees are invited to a workshop to better equip them to manage the Maternity Transition. For fathers, Citi offer a New Dads Workshop - open to all new and expectant fathers and have just piloted a Staying Connected Workshop for divorced and separated Fathers. Citi are also founding members of the Employers 4 Fathers - a group of UK Employers seeking to explore development of best practice for working Dads in the UK. Some firms had experience of Networks to support their culturally mixed workforces. One successful model we came across was that of an International Network where anyone could go to celebrate particular international events during the year, or to sample different cuisine and other customs. Anyone of any background could join in and it took away from it being a network for particular ethnic groups, nationalities or religions. Some City firms are so global in nature that awareness of national holidays in other parts of the world becomes second nature. Even the artwork around the building celebrates artistic achievements from many parts of the world. Other firms have found that people from so-called minority ethnic groups do not particularly want to network together as opposed to networking more widely.

We did talk to some City firms who had other network groups e.g. with respect to disability. Undoubtedly, the need to welcome and accommodate disabled employees, customers and visitors is on some firms' priority lists. One firm we surveyed had carried out a significant exercise of employees but also external clients and visitors. Many practical suggestions had emerged from this consultation, the vast majority of which did not cost a lot to implement e.g. software tools, internet and brochure design changes, brighter lighting in some corridors, buddying systems for emergency evacuations, etc. The action plan was therefore reasonably straightforward to introduce over time. Many City firms work in new office buildings that can easily be adapted to improve access for people with disabilities; as firms move or refurbish their buildings accommodations can readily be designed in. Excessive cost can rarely be used as an excuse in the City or Canary Wharf. However, it is also important to remember the behavioural accommodations that can be made; for example one firm trained all receptionists and security guards in the basics of sign language in case visitors needed such assistance.

Another grouping that often supports an internal network is that of lesbian, gay, bisexual and possibly transgender employees – LGBT to quote the acronym. Often these networks create a strongly supportive environment for members and a social or personal benefit may be the main outcome. Others influence HR policies for example on the collection of statistics for this group of employees and in making communications clear and explicit about civil partnerships in various policies. Members are often also enthusiastic about the general diversity programme, for example one LGBT network collaborated with their firm's Women's Network to run a very interesting session on career management.

Smaller firms may not have enough employees to establish many different network groups. Some may have a single diversity forum but this can work equally well in bringing the employee voice into the development of diversity actions. Smaller firms may be less able to run a wide variety of events or to support as many policies but they can still prioritise according to specific needs. For example, in 2008 we had found that one London-based bank with primarily a middle east clientele regularly ran Cultural Awareness Days bringing the history, geography, arts, culture and cuisine to life. This also helped with the sense of inclusion of the bank's 16 different nationalities particularly for employees who had not had the chance to travel much.

## **Diversity Training**

Firms report some training on diversity. Some of this is aimed at managers to encourage them to manage diverse teams more effectively and to understand their legal obligations. Other training is aimed at particular groups such as women employees to help them build specific skills or confidence. All training in this area needs to be designed and run with considerable sensitivity as it is easy to get it wrong. We have found a wide range of training on offer in City firms. However, the City HR Association 2010 benchmarking survey found that only 29% of City firms offer regular diversity training to managers although the figure for ad hoc diversity training for all employees is quite a bit higher at 50%. Perhaps this is training which can only be done occasionally and with a clear focus to avoid cynicism and other adverse reactions.

Diversity training for managers ranges from briefings on the legal framework to much broader leadership training on the firm's values and incorporating these into the way they manage their teams including aspects related to diversity. Some sessions are open to all employees whether or not they manage teams. Popular methods include drama-based training where professional actors play out management scenarios engaging the audience of City employees in evaluating fictitious managers and recommending improvements. Some firms invite diversity gurus



for example from the US (either because firms are US-led or believe that the US has achieved more on diversity) to stir up and challenge the audience on their own prejudices and assumptions with regard to work colleagues who are a bit different.

Some firms have set up training specifically to address the cultural differences amongst their London workforce. Some workshops have been targeted at expatriates from an overseas head office to help them understand how cultural norms back home might be different in the UK (for example how women are treated, how different religions are tolerated, and tolerance of different sexual orientations). Other firms have introduced similar training under a wider umbrella – we came across a few examples. *Professional Global Management* was one initiative, or *Customer Respect Programme* was another. This is a sensitive area and particular care is needed in the design of this type of training. Close links to a business agenda helped to make it succeed.

Some of the firms we surveyed had offered induction training to all managers and employees to highlight cultural differences presented by working with people of different nationalities. One firm reported running specific programmes for people of head office nationality in order to prepare them better for working in London.

Clearly City firms are keen to tackle these questions: “*making the senior management levels more diverse in terms of race or nationality*”; “*create an effective culture for the 36 nationalities working at the bank*”.

A range of specially tailored workshops have been implemented by many City firms to address issues typically encountered by women. These include skills development, confidence-building particularly around influencing, networking and management. For example, one firm offered training to women employees on influencing skills and the use of power in business situations following some research they did amongst their employees. Many of these workshops have been successful particularly when senior managers present at the training and demonstrate their commitment to enhancing women’s careers. However, some City firms report that their employees prefer to be trained in mixed groups because they see no need to separate out particular groups as the skills are needed by everyone. Training for specific groups can also leave the impression that the groups are deficient in some way when in fact their managers need to accept and value their differences. Sometimes examples of the “women are deficient and just need to change” philosophy abound on the internet. One item demonstrated this issue very vividly recently. The internet item listed 10 reasons why women don’t advance in banking; they were all to do with “problems” in the way women sit, stand, talk, ask questions, shake hands etc. If only women would change these behaviours they would advance as fast as men. This is a clear illustration of a common view that underrepresented groups have “problems” that they just need to fix. However, women in City firms often don’t like to be told how

to stand, how to smile or how to dress; they find this patronising. Other women find it hugely helpful and very interesting. So City firms need to watch the hidden messages they may inadvertently signal when they put on certain types of diversity training focussed at specific groups.

## **Coaching & Mentoring**

The City, like other sectors, has seen an increase in employee coaching, particularly as part of the overall talent management strategy. Many organisations use external coaches to help managers particularly when new to a role. These resources can particularly be skewed to managers from underrepresented groups to give them an even better chance. Likewise, many organisations have assigned female employees or other minority employees with mentors. Mentors are often more senior managers from a different part of the firm; they can guide the employee in the workings of the firm and how to manage their careers. Firms have generally made coaching and mentoring available to all employees in its succession planning or talent pool irrespective of background but have also been used to further diversity objectives. Mentoring is usually highly valued by employees particularly when they are paired with a very successful senior manager. However, recent research from Insead published in the Harvard Business Review pointed out a stark finding (Henminia Ibarra et al in “Why men still get more promotions than women”, Harvard Business Review September 2010). Women get mentored but men get sponsored. Yet another example of how we tend to assume that the minority employee has a problem they must overcome to fit in? Are senior men more nervous about sponsoring a woman than they are a man? We recommend that firms continue to evaluate their coaching and mentoring to determine the value achieved and whether the programme needs to be changed, re-oriented or re-launched.

A particular type of coaching that has emerged over the past few years is aimed at female retention. This is maternity leave coaching. The aim is to help the employee address issues arising during maternity leave such as a decrease in confidence about work and feeling ‘out of touch’ with the business. It is anticipated that employees are more likely to return and remain if they are coached throughout their maternity period. This coaching is usually offered to more senior women and may get extended down to more junior maternity leavers if found to be successful. Overall return rates after maternity leave are very high (90%) and if anything are improving according to City HR Association’s recent benchmarking study of 56 City firms. However, firms will need to monitor closely the progress of women’s careers after return from maternity leave. One focus group of women returners at one bank, for example, reported that the firm was good at enabling them to keep a job but not to keep a career.

## Women returner coaching in City organisations

This short article is provided by consulting firm Newton Whyatt.

Taking maternity leave and then returning to a challenging role, balancing the competing demands of home and work, is never easy. But a number of City organisations have introduced an initiative to support senior female staff through this transition. 'Women returner coaching' or 'maternity coaching' is now offered by a number of the larger firms as part of their diversity and retention strategies. Although only 9% of the respondents in the City HR benchmarking survey currently offer such a scheme, these organisations recognise that extra support at this crucial time can make a telling difference in retaining key staff.

To optimise its effectiveness, the coaching programme is tailored to meet the needs of both the organisation and the member of staff. Typically an external coach meets the executive three or four times for a confidential face to face coaching session and maintains email and telephone contact in between sessions. The first session takes place 6-8 weeks before the start of the maternity break and covers the timing of the leave, preparing for the break, setting up an effective handover and keeping in touch during the time away. In the second session, about 8 weeks before return, the coach and coachee discuss rebuilding confidence, getting back up to speed and flexibility in working patterns on return. The third and fourth sessions, after returning, deal with any difficulties experienced on return, setting objectives, maintaining personal balance and career planning.

One coachee, a director in investment banking, commented: *"As a result of the coaching I felt much more competent in the way I handled my leaving for maternity leave and the completion and handover of my work. On returning to work, the coaching helped my own confidence levels by helping me determine how I could start adding value to the team soon after my return."*

The organisations have found that the coaching has a positive effect on the communication between the line manager and executive taking leave. Another coachee, an equities director, was pleasantly surprised: *"By maintaining good contact with my manager in a professional way, as discussed in the coaching, I think I actually went up in his estimation rather than down as I feared from becoming a mum."* A structured approach to the handover benefits colleagues providing cover during leave. As another executive noted: *"received a lot of positive feedback regarding my handover and how organised I was which was a direct result of the coaching."*

As women now make up half of new recruits to City banks and 90% return after maternity leave (City HR benchmarking survey), initiatives to retain them and to help them to work effectively and maintain their careers through these crucial years will become increasingly important.

## Flexible Working Arrangements

A major change in the City has been the increase in flexible working. Historically, the City has been a long hours culture and to some extent it still is. Workloads are considerable and deals often take place in the evenings or weekends. This has made life difficult for female employees, with children who need to get to the nursery by a particular time even if they will be logging back on to their emails after bedtime. Of course it affects some fathers too and those with other dependents.

As firms began to embrace the benefits of diversity – in all its manifestations – attitudes towards “normal” working hours have changed. Most organisations have re-considered their policies to encourage family friendly policies and flexible working. Initially the right for women with children under the age of 6 (or under aged 18 if the child is disabled) to request flexible working patterns, with a duty on the part of the employer to consider this against the specific requirements of the business prompted changes across the City. The right has now been extended to parents of children under 17 (or 18 if disabled). We found that very many City firms automatically extended this right to ask for flexible working to all employees regardless of the reason for asking. Of course the firm retains the right to say no for business reasons and the impact on the work team should be considered. Some City firms note that men tend to have informal flexible arrangements which are just between themselves and their line manager whereas women tend to have formal arrangements which are captured in HR and payroll systems. Hence men’s arrangements can be less visible to the rest of the firm and are less likely to impact pay or progression.

“JLT is an international group of risk specialists and employee benefit consultants. We adopt a partnership approach highlighting the importance of diversity and treating people fairly. One way we have done this is to adopt flexible working whenever possible. For example, we do have a considerable number of adapted working patterns. This can make a real difference to some employees in balancing home and work demands”.

Robert Potter, Group HR Strategy Director, Jardine Lloyd Thompson Group plc.

Clearly, there are some roles in the City where the manager and the team can often facilitate such a request. This has included most back office and support functions and some roles in HR, Finance, Legal and Compliance. However, there have been some business areas within City firms where this has proved difficult. Those typically cited include the trading floor, key client relationship management roles, insurance underwriters and public relations executives where an immediate response is essential to the business.

Our feedback from City firms is that they do not allow other flexibilities that perhaps are allowed in other sectors. One example might be compressed hours when the employee does all their weekly hours in 4 days by working long days. How is this fair when firms require employees to work the hours that it takes to do the job which is often very long days? Or part-timers on 4-day-a-week pay also work very long hours. Each firm will need to consider just what flexibilities are fair in their businesses.

Equally firms will need to consider their career structures and how those impact people who work flexibly. Often key promotions take place when employees are typically late 20s or early 30s. What if a woman wants to be part-time or on career break then but come back in her mid- 30s. Has she lost her career progression forever even though she will probably be working till she's 65? One professional services firm operating in the City recently promoted a woman in her mid 40s to partnership. This promotion usually happens to someone in their early-mid 30s or they are not deemed suitable. We shall see more of this age flexibility for promotions in the years to come.

## **Standard Chartered Bank – Supporting Working Parents**

Standard Chartered PLC is a leading international bank, listed on the London, Hong Kong and Mumbai stock exchanges. With more than 80,000 staff across over 70 markets, the Bank believes recruiting and retaining diverse talent enables it to leverage a workforce rich in unique strengths, backgrounds and ideas.

In particular, Standard Chartered strives to be recognised as a leader in gender diversity and in 2007, the Bank established a Group Women's Council, responsible for setting the Bank's strategy to help women realise their full potential within an engaging and inclusive workplace. As women typically bear disproportionate family responsibilities, the Group Women's Council has overseen a number of initiatives with the specific aim of supporting working parents.

## Promoting flexibility and balance

The Bank believes that allowing employees greater control and choice over how, when and where they achieve their deliverables not only helps employees balance their work and personal commitments, but that it also leads to improved engagement, retention and ultimately, business performance. UK-based employees, regardless of gender or family status, are able to apply for flexible working arrangements at Standard Chartered, including part-time working, flexible working hours and working from home. The policies ensure a consistent approach and a wide range of employees now work flexibly, across different business functions, levels of seniority and including both men and women. In fact a pilot of the working from home policy, which included over 70 people in the UK, showed there were slightly more men participating than women. After this trial, which was then launched to all employees in the country, the Bank found 96 per cent of employees reported benefits from the arrangement. Specifically, most noted work-life balance but a reduction in travel time, increase in productivity, greater ability to manage time zones and higher engagement were also frequently mentioned. This award-winning approach has been praised for its inclusivity and wide-reaching application which goes beyond the minimum legal requirements.

Standard Chartered has also taken a number of steps to create a supportive environment whereby flexible working and work-life balance are actively encouraged. The Bank has developed materials to support employees, managers and HR ensure that flexible working arrangements are as effective as possible and 'masterclasses' with HR Relationship Managers have been conducted on their role in promoting positive work-life balance and flexible working within teams.

## Facilitating peer support and information

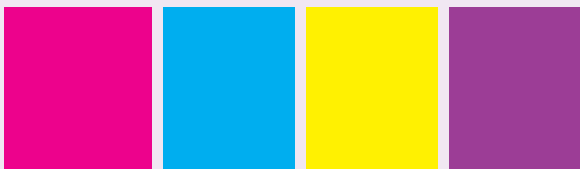
On International Women's Day, the Bank launched a 'Parenting Resource Centre', an internal website that provides information for mothers, fathers and partners as well as managers of women going on maternity leave. The site has tips for women on how to talk to their managers, questions to ask about the maternity experience and interviews with employees from the Bank on how they balance work with their family responsibilities. Many of the Bank's senior leaders are featured on the site, serving as role models and providing advice on how to manage personal and professional commitments. The site has had over 2,000 distinct users in the first four months and is updated with new content and interviews on a regular basis.

As part of the Bank's UK Diversity and Inclusion Council, a parents and carers' network was established to provide peer-to-peer support and development opportunities. Workshops are held on a regular basis on topics such as time management, negotiation, stress and conflict resolution. The network also facilitates online discussion for parents to share advice and offers a buddying programme between current, past and prospective parents. This initiative allows the 'buddy' to share his/her knowledge and experience of parenthood and to assist as new parents transition into this role.

## **Tailoring recruitment and development strategies**

In addition to supporting its existing employees, Standard Chartered aims to attract working parents to join the Bank. For example, recruitment platforms targeted specifically at mothers are used to solicit applications from working parents.

To support talented, high-performing female employees progress to more senior roles, the Bank has a signature 'Women in Leadership Programme', which was specifically designed for women at middle management level within the context of Standard Chartered. Recognising the unique challenges that women often face, the programme helps participants develop clear personal and professional goals and ensures they have the support to achieve their ambitions. After the course, a mentoring programme is also made available to participants, whereby they have the opportunity to focus on specific themes identified by the Bank, including work-life balance and career and life planning. Over 50% of high potential managers in the UK have now participated in the programme and with 100% of participants reporting they would recommend the experience to their colleagues, it has been very well-received.



## Changing employment policies

In the 1980's and 1990's, City workers often joked of “burning out” by the time they reached 50. This is no longer the case. As with all other walks of life, individuals in all professions within financial and professional services are encouraged to stay active in their occupations for far longer, and in the current climate in the City, experience of other downturns and recessions really counts.

Some businesses, particularly those with high pressured workloads, have encouraged older people to retire in order to make way for the new generations. Or perhaps they are moved into less pressured jobs – perhaps away from direct client contact. However, firms should not assume that only younger people want to do the most demanding jobs to help themselves up the career hierarchy. Remember Warren Buffet and Alan Greenspan and others who have kept going right at the top of their organisations.

## Preparation for the Abolition of the Default Retirement Age

A City HR Association subgroup included representatives from Davies Arnold Cooper LLP, Punter Southall Group and Premier Pensions Management. The subgroup reviewed the government's proposals on the abolition of the default retirement age. The government has published a consultation document setting out its proposals to phase out the default retirement age (DRA) of 65 and the statutory retirement procedures. The government proposes to abolish the DRA on 1 October 2011, with transitional arrangements beginning on 6 April 2011. Employers giving notice of retirement after 6 April 2011 will no longer be able to rely on the DRA. If giving notice after 6 April 2011, employers will still be able to operate their own compulsory retirement age, providing that they can objectively justify it as a proportionate means of achieving a legitimate aim.

City HR Association members are advised to:

- Take care in holding discussions with employees about their thoughts on when they might want to retire. This will be particularly the case if the employee has not raised the issue themselves. There may be guidelines from the government on how to do this. Until or unless these are available employers should take particular care.



- If an employee doesn't wish to retire and managers believe that they are not performing up to the standards required, employers will need to initiate performance management processes. Waiting for a default retirement date will no longer be an option.
- Benefits may need to be reviewed carefully particularly if there is an additional cost associated with age as with medical insurance policies. Consider the implications carefully and take advice
- Pensions are subject to specific exemptions as introduced in 2006. These still hold.
- Be careful in using objective justifications for practices that are age-related or length of service related as these may not hold. Legal input would be advisable on the strength of objective justifications.

Some of the City firms we surveyed mentioned the need to stay in touch with the needs of Generation Y employees (those born in the 1980/90s). Much has been written about whether these new entrants to the workforce put higher priority onto work-home balance than previous generations. Or actually, do they just want cash? Will employers need to adjust or will the new entrants adjust their thinking, particularly once they've worked through a financial crisis or an economic downturn. Is the new generation of employees any different to the existing workforce? Does Generation Y want their cake and eat it too?

## **Pay and reward processes**

Pay in the financial sector is under review by the regulators and could change considerably over the next few years. Such debates are well beyond the scope of this guide but elements of the pervasive reward culture are relevant.

Pay transparency has long been a key approach to changing pay awards as the belief is that the more pay levels and strategies are open to public scrutiny the more they will conform to the external standards expected. This has recently been applied to the question of how women's pay compares to men's pay. This is intended to be an aggregate figure so that stakeholders can see how women are paid compared to men and can pose questions as to how firms will work to close the gap. City firms we surveyed were unenthusiastic about publishing pay gap data. There are a number of reasons for this not least because most firms don't believe they can do much to reduce the gap; they are keen for women to progress but clearly won't accelerate this beyond women's own interests and abilities. They are concerned about unhelpful comparisons between firms who may be different

businesses and may use different measures. They also don't believe they will be comparing like with like when it comes to comparing aggregate women's pay and men's pay.

Only 18% of firms surveyed by the City HR Association carry out Equal Pay Audits on a regular basis; this is no different to the finding in 2008 when 16% of firms said they did Equal Pay Audits. These detailed reviews can be useful in comparing men and women in jobs of equal value which is possible in some sectors and in some departments. They can be a useful prompt to line managers to check that women are paid the same as men for the same job outputs. However, the exercises can be extensive and pay decisions can often best be reviewed in detail at the time of the annual pay round.

## **Equal pay management**

Mercer have provided this short article on managing equal pay.

Organisations do not deliberately discriminate in the way they pay their employees, however they do open the door for claims by being inconsistent in the way they reward. In this article we offer some insights into the legal framework, the causes of unequal pay and some insights into the way organisations can manage the risks.

### **The legal framework**

The Equality Act 2010 (which replaced the Equal Pay Act 1970 at the beginning of October) requires that a woman doing equal work with a man (or vice-versa) in the same employment is entitled to equality in pay and other contractual terms, unless the employer can show that there is a material reason for the difference which does not discriminate on the basis of her sex. It does this by implying into the contract of employment a sex equality clause which modifies the contract of employment so that no term is less favourable.

Equal work is: like work i.e. the same or broadly similar work; work rated as equivalent under a job evaluation scheme; or work of equal value. The woman and her male comparator must be in the same employment. This means that they must be employed by the same or an associated employer at the same establishment or workplace, or at a different establishment or workplace so long as common terms and conditions apply generally at each workplace. In addition, European Union law permits comparisons between employees working for different employers so long as the differences in pay are attributable to a single source e.g. an industry-wide collective agreement.

The comparator need not be employed at the same time as the claimant but can be a predecessor in the same job. Claimants unable to point to an actual comparator cannot bring a claim for equal pay but, following a change introduced by the Equality Act, may bring a claim of direct sex discrimination in relation to contractual pay.

An employer **can** pay a man more than a woman doing equal work but only if the reason for doing so – the material factor which the employer regards as making their case different – is not related to the sex of the jobholders. However, there is no such thing as an automatic or blanket defence. Factors such as: market forces; skills; experience; service; performance; and geographical differences have all been successful in some cases but have failed in others. This is because in addition to identifying the factors, the employer must prove that the factor: is the real reason for the difference in pay and not a sham or pretence; is “material” i.e. “significant and relevant” and be an important cause of the difference; and is free from both direct and indirect sex discrimination.

Failure to pay equal pay can be costly. If the sex equality clause is breached, the aggrieved party may seek up to six years in back pay.

### **Causes of equal pay risks**

Equal pay risks arise from poor compensation management. Good compensation management requires that there is a systematic approach to the way that a business decides how it pays its employees. Typically this requires them to think about the governance of compensation; the principles under which it pays people; the way it defines jobs, their size and relativities; the data it accesses; the resources (people and technology) it allocates to the process; and the way it engages with managers and measures the performance of employees.

There is a vicious circle that commonly exists in organisations where governance is weak i.e. ownership is unclear, the guiding principles lack clarity, so the communication to managers is ambiguous and this results in inconsistent decision-making with respect to pay increases and bonus awards. Historically, and when times are good, organisations are happy to set budgets at a high level and delegate the responsibility for fair distribution. Most businesses fail to realise, in the absence of stronger corporate control, that line managers are an extension of the compensation governance framework. And, whilst the top line budgets are being managed, when guidance is weak managers have a natural tendency to exercise discretion subjectively. This results in the inconsistencies that are typically seen in organisations (most admit to both over-paying and under-paying their employees at pay review time) and leaves them open to claims from employees who consider these inequities to be personally unacceptable and, because of the grapevine, have no problems identifying a suitable comparator who is better off than them.

## Managing the risks

You manage equal pay risks by continuously assessing how your actual pay (by employee) compares to the target rates in the market for the roles those employees are carrying out, and taking action to remedy inconsistencies. Although a robust and rigorous approach to compensation management, and a plan to deal with inequities, are not a defence against equal pay claims they might explain how pay progresses in the organisation and, if fair, might be used as a material factor to justify apparent inequities. However we would advocate that the strength of the defence is significantly enhanced if the principles are used to drive equality and not developed in retrospect to explain/defend inconsistencies.

Good compensation management therefore requires organisations to:

*Understand how jobs are organised, profiled and sized inside the organisation* – equal pay law hinges on the relative value of the work that people are doing. Proactive organisations therefore need a basis for understanding jobs and relative job size. Job evaluation methodology is an obvious solution although isn't obligatory, but if it is used then an organisation must show that it has been fairly applied

*Be clear on the value of a job in the external market (and therefore the person doing the job)* – as a minimum, organisations need access to good market pay data and have a good understanding of how their jobs compare to the benchmark positions in these surveys to be able to draw some conclusions about the value of the job in terms of its' pay level

*Understand how individual performance is recognised and rewarded* – what constitutes good performance and whether someone is a good performer are subjective matters and therefore create the risk of bias. Organisations need to be clear on distinctions between things like competency, contribution and potential, and the basis on which they are measured and subsequently rewarded. Most reward structures are multi-faceted and organisations need to be clear on how they expect these attributes to be recognised by the available reward programmes

*Structure pay and the principles on which pay progresses* – the art of targeting pay requires organisations to be clear on what they reward and building the structures to ensure this is managed consistently. This will require them to think about acceptable ranges of pay and why personal, job or regional factors may place a premium or discount on a job. During the pay round the organisation needs to be clear on how these factors (including performance) determine what share of the budget an individual should receive

*Allocate resources (staff and technology) to the process* – compensation management is a seasonal and specialist activity. To be effective you need well-equipped and experienced staff who know how to identify and interpret relevant market data. They need to engage with the business to understand the talent demands and develop cost-effective programmes that address these needs

*Engage with managers on the principles and actual pay allocation* – line managers are the key to consistency. They need to make informed decisions that are aligned to the organisation's guiding principles and need to be supported through the pay review process. This means there must be significant investment in building their understanding and acceptance of the reward principles and their knowledge of and adherence to organisation-wide pay protocols and processes

*Communicate with employees about your reward principles and how those principles have been applied to them* – communicating with employees won't ensure consistency but it will reduce the risk of equal pay claims. Research indicates that when employees understand the basis on which they are rewarded (irrespective of how well they are rewarded) then they are five times more satisfied with these rewards than employees who don't understand. Satisfied employees are unlikely to make claims

### **Auditing pay equality**

Although there are no statutory obligations to publish gender pay differences there are provisions in the Act to regulate for this, and the government has indicated that it may require gender pay reporting by 2014 if there is insufficient voluntary progress. Irrespective of this, organisations should evaluate the gender differences as a basis for quantifying their risks. If you have robust compensation management processes in place this is simply a matter of assessing how actual pay levels (and incentive awards) compare to target values. If gender is a factor then you'd be wise to do something about it.

There is no panacea to equal pay claims, you might just be unlucky. However, organisations can go a long way to mitigate against claims by having a robust approach to compensation management – being clear on what you reward and rigorous in the way you apply it. And gender inequality may just be the tip of the iceberg. If you have an equal pay issue the chances are that you are generally inconsistent in the way you reward people and might have significant amounts to gain (reduced cost of over-payments and reduced retention risks from under-payments) by being more effective in the way you manage your compensation.

# 3 The legal landscape to diversity - 2010 and beyond

This article on the legal landscape to diversity – 2010 and beyond is provided by Field Fisher Waterhouse LLP.

With the Coalition Government committed to “*review employment and workplace laws, for employers and employees, to ensure that they maximise flexibility for both parties, while protecting fairness and providing the competitive environment required for the enterprise to thrive*” this year has seen significant legislative changes and proposals for change that will shape the diversity agenda for many years to come.

## **Equality Act 2010**

Following the general election, the Government indicated that it would review the long-awaited Equality Act 2010 (the “Act”), causing uncertainty for both HR practitioners and lawyers. However, the Government decided to implement the majority of the Act on 1 October 2010, promising the biggest shake up of our discrimination laws since the 1970's. It consolidates nine Acts of Parliament, over 100 statutory instruments and over 2,500 pages of guidance and represents a significant milestone in employment law.

## **Pay secrecy, equal pay information and positive action**

When the draft Equality Bill was first published much debate was generated about the proposals aimed at increasing transparency and positive action. The much discussed provisions outlawing pay secrecy clauses came into force on 1 October 2010. Therefore, any term of employment that prevents or restricts an employee from disclosing, seeking to disclose their pay to colleagues, or seeking disclosure of their colleagues pay with a view to finding out if there is a connection between any difference in pay and any protected characteristic (not just gender), will be unenforceable.

However, the provision requiring private sector employers with 250 or more employees to publish information about the differences in pay between their male and female employees is still under consideration by the Government. The previous Government's aim was for employers to publish such information voluntarily and to use

this power from 2013 if sufficient progress on reporting had not been made. This provision did not come into force on 1 October 2010. Neither did the controversial provision relating to positive action in recruitment and promotion, which allow an employer, where they feel it appropriate, to take under-representation into account when selecting between two candidates who are equally qualified for recruitment or promotion. However, these provisions remain under consideration by the Government.

## **Consolidation, amendments and new concepts**

Whilst the Act harmonises and consolidates a number of provisions, it also introduces a number of new concepts.

### **Protected characteristics**

For the first time the Act brings together all the different strands of discrimination (age, disability, gender reassignment, marriage/civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) in one piece of legislation. The strands are given the new term “*protected characteristics*”.

Some changes have been made. For example, in relation to the definition of disability, the requirement that the disability must affect one or more of the list of the employee’s capacities, has been removed, instead relying on the general requirements that the impairment must have a substantial and long term adverse effect on the person’s ability to carry out their normal day to day activities. The Office for Disability Issues has recently published a consultation on draft guidance on matters to be taken into account in determining questions relating to the definition of disability which is intended to reflect the slight change to the definition of disability.

A further tweak has been made to the definition of gender reassignment which no longer requires a person to be under medical supervision. There is also provision within the Act to amend the definition of race to include caste in the future.

### **Prohibited conduct**

The Act uses the umbrella term “*prohibited conduct*” to describe a range of conduct including direct discrimination,

indirect discrimination, combined discrimination, discrimination arising from disability, harassment and victimisation.

The definitions of direct discrimination and indirect discrimination have been slightly amended, although not to a material extent, and apply to all of protected characteristics, introducing for the first time the concept of indirect disability discrimination. More significantly the concept of direct discrimination has been widened to include discrimination based on association and perception in relation to all the protected characteristics, except where the reason for the treatment is marriage or civil partnership.

The Act introduces a new type of claim relating to combined discrimination, where a person claims to have been discriminated against because of a combination of two relevant protected characteristics. This provision is still under consideration by the Government and did not come into force on 1 October 2010.

The Act also creates a new claim of discrimination arising from disability which replaces disability-related discrimination, which has had its effectiveness significantly reduced as a consequence of the House of Lords decision in *Major and Burgess of the London Borough of Lewisham v Malcolm*.

The Act also extends prohibition on harassment by third parties (such as customers or clients) to cover all protected characteristics except marriage and civil partnerships and pregnancy and maternity. Liability in relation to third party harassment will arise when harassment has occurred on at least two previous occasions and the employer is aware that it has taken place and has failed to take such steps as would have been reasonably practicable to prevent it.

## **Enquiries about disability and health**

The Act also includes a new provision which prohibits employers from asking about the health of an applicant either before making an offer of employment or before including the applicant in a pool of applicants from which a successful candidate will be successful.

Employers will be allowed to make enquiries about disability and health in specified situations including for the



purposes of making reasonable adjustments to enable the person to participate in the recruitment process; finding out whether the applicant would be able to carry out a function which is intrinsic to the job with reasonable adjustments in place, as required; monitoring diversity in applications for jobs; supporting positive action in employment for disabled people; and enabling the employer to identify suitable candidates for a job where there is an occupational requirement for the person to have a particular disability.

## **Equality agenda**

Having implemented the Act the Government intends, over the course of the next five years, to promote gender equality through the greater representation of women on the boards of listed companies. No information has been provided as to how this will be achieved, but it may include, as the Conservatives proposed in their manifesto, imposing a minimum percentage of 50% female candidates for non executive appointments and requiring such appointments to be advertised.

The Government also proposes to promote gender equality in relation to equal pay. It is unclear whether this will mean that companies will be required to carry out an equal pay audit. The Conservatives previously stated that they would require employers found to have discriminated on the basis of gender to carry out an equal pay audit. However, the Liberal Democrats would seek to impose such a requirement on employers with over one hundred employees. Prior to the election, the Conservatives also suggested that they may seek to amend the material factor defence in equal pay claims with Theresa May suggesting that a reasonableness test may be introduced.

## **Remuneration in the financial sector**

With remuneration in the financial sector such a hot topic the Government has stated that it will tackle unacceptable bonuses in the financial services sector and, in developing these processes, will ensure that they are effective in reducing risk. It is hoped that the proposed Financial Services Regulation Bill, the FSA's review of the remuneration policies and practices of the 26 large banks, building societies and broker dealers and the amended Remuneration Code, due to come into force early next year, will provide clarity about what is deemed to be acceptable remuneration policy and how risk should be linked in to remuneration policies. However, the changes will also have an impact on pay equality issues in the City and businesses in the financial services sector should be mindful of equality issues when setting their remuneration policy.

## **Family leave**

The Government has recently announced that the right to request flexible working will be extended to parents with children under the age of 18 from April 2011. The Government is also committed to extending employees' rights to family leave and plans to extend the right to request flexible working to all employees. This will be a significant change from the existing legislation and the Government has stated that it will launch a consultation on the proposed changes later this year.

The Government also proposes to encourage “*shared parenting from the early stages of pregnancy*”. Based on the Liberal Democrat's manifesto, this may include an extension of existing maternity and paternity leave rights and the right for fathers to have time off to attend ante-natal appointments.

## **EU legislation and red tape**

The Conservatives have stated that they will end the “gold plating” of new European legislation that is implemented in the UK. It is unclear what this will entail or how it will impact on any new equality and diversity legislation introduced by the EU. However, it is envisaged that there will be a review of the implementation of the TUPE Regulations and Acquired Rights Directive, the Part Time Work Directive, the Fixed Term Work Directive, the Information on Employment Conditions Directive and the Agency Workers Directive. The Government also plans to limit the application of the Working Time Directive in the UK. Again, however, it is unclear precisely what is meant by this.

The Government also proposes to cut red tape by introducing a one in one out rule, whereby no regulation is implemented without another regulation being cut by a greater amount. They also propose to introduce sunset clauses to ensure each regulation is regularly reviewed to determine whether it should be amended or repealed. Again, how this will work and impact on the Equality Act remains to be seen.

## **The next five years**

Whilst we have had some insight into the changes we might see over the course of this Government, the devil will be in the detail. However, with both the Conservatives and Liberal Democrats committed to promoting gender equality and diversity throughout the City, as always, interesting times lie ahead for HR practitioners in the City and elsewhere.

## So what should City HR practitioners be doing?

The true impact of the changes brought in by the Equality Act and the Government's proposed changes remains to be seen. However, City HR practitioners should:

- 1 review and amend policies and procedures, in particular equal opportunities policies, to reflect the new provisions of the Act;
- 2 review and amend compromise agreements to incorporate all the subtleties of the new provisions of the Act;
- 3 review pay secrecy clauses and consider their removal, if appropriate;
- 4 consider areas of employment which may need to be reviewed, for example, the recruitment process in light of a new provision regarding enquiries for disability and health;
- 5 consider the scope of the new third party harassment provisions and the impact that they could have on the relationship with customers and contractors;
- 6 provide comprehensive training so that all managers and employees are aware of the changes introduced by the new Act;
- 7 review publications, such as the Employment Statutory Code of Practice, which provides further guidance on what is meant by "*protected acts*" and "*prohibited conduct*" and the practical implications of the Act;
- 8 ensure that they have an input into any remuneration policy implemented following the forthcoming changes, having particular regard to equality issues;
- 9 update flexible working policies in anticipation of the changes due to take effect in April 2011; and
- 10 monitor future developments and Government announcements.

# 4 A specimen diversity policy and procedures

This sample policy has kindly been provided by City employment law specialists, Hammonds

## 1 STATEMENT OF POLICY

**1.1** [insert name of organisation] (the "Company") is an equal opportunities employer. This means that it is the Company's policy that there should be no unlawful discrimination, harassment or less favourable treatment or victimisation of any employee, contractor, agency worker, job applicant, customer, provider of services or member of the public either directly or indirectly because of:

- (a) age;
- (b) disability;
- (c) gender reassignment;
- (d) marriage or civil partnership;
- (e) pregnancy and maternity;
- (f) race;
- (g) religion or belief;
- (h) sex;
- (i) sexual orientation.

## 1.2 Forms of discrimination: -

### (a) Direct discrimination

Direct discrimination occurs where someone is treated less favourably because of one of a protected characteristics outlined in clause 1.1 above, for example race, sex, disability etc. It includes cases where the less favourable treatment is because of the person's association with someone who has that characteristic (for example, is disabled) or because the person is wrongly

thought to have it (for example, a particular religious belief). Direct discrimination also includes harassment and victimisation (see below). Direct discrimination is usually unlawful whether it is intentional or not.

**(b) Indirect discrimination**

In broad terms, this occurs when a job requirement criterion or practice is applied equally to all applicants or employees but it has a disproportionate and detrimental effect on people with a protected characteristic, because fewer of that group can comply with it, and the requirement cannot be justified in relation to the job. Examples of indirect discrimination may include insisting on certain qualifications which are not sufficiently relevant to the performance of a job.

**(c) Failure to make reasonable adjustments**

If an applicant or employee has a physical or mental impairment that has a substantial and long term adverse effect on his ability to carry out normal day-to-day activities, then the Company must make any reasonable adjustments to its premises or any arrangements made which would otherwise put the individual at a substantial disadvantage.

### **1.3 Harassment**

**(a)** Harassment is unwanted conduct related to a particular protected characteristic (see 1.1 above) which an individual may find offensive, which causes him or her to feel threatened, humiliated, patronised or harassed and creates an intimidating, hostile or humiliating work environment for the individual.

**(b)** Harassment may be open or covert, direct or indirect, an isolated incident or a series of repeated actions. It may also include, in certain circumstances, off-duty conduct.

**(c)** It is the duty and responsibility of the Company and every employee to take reasonable steps to stop all types of unlawful harassment and discrimination in the workplace. It is only through the

efforts of individual employees that harassment and discrimination can be eradicated. Every employee in the Company has the right not to be subject to any form of unlawful harassment or discrimination.

**(d)** Examples of harassment may include:

- (i) abusive or insensitive language, or pranks;
- (ii) name calling or comments about an individual's physical appearance;
- (iii) the display or circulation of offensive written or visual material, or graffiti;
- (iv) physical threats, assault, or insulting behaviour;
- (v) open hostility towards workers of a particular group, including organised hostility in the workplace;
- (vi) exclusion from normal workplace conversation or social events, i.e. being "frozen out";
- (vii) inappropriate assumptions about the capabilities, interests or attributes of an individual on any of the grounds at 1.1 above.

The above examples are not exhaustive and each incident will be viewed on its individual facts.

**(e)** It will not necessarily be a defence that such incidents consist of words or behaviour which might be claimed to be "commonplace" or which were intended as a joke or were not intended to be offensive. However, nothing in this policy takes away a manager's right to manage, including the imposition of reasonable pressure to perform or behave to an acceptable standard and where appropriate, of disciplinary sanctions. Where the manager's conduct is a reasonable response to a perceived problem this will not constitute bullying or harassment notwithstanding that this response may cause an employee to feel under threat or otherwise distressed.

## **1.4 Victimization**

Victimization occurs when a member of staff treats an existing or former member of staff less favourably because:

- (a)** that other person has in good faith brought proceedings alleging that he has been unlawfully discriminated against; or
- (b)** has indicated that he intends to make such a claim or claims; or
- (c)** he has assisted a colleague to make such a claim, whether or not that claim is accepted as having any merit.

## **2 POLICY OBJECTIVES AND INTENTIONS**

### **2.1 2.1 In issuing this policy, the Company has three main objectives:**

- (a)** to encourage its employees to take an active role in combating all forms of unlawful harassment and discrimination;
- (b)** to deter employees from participating in unlawful harassment or discriminatory behaviour; and
- (c)** to demonstrate to all employees and third parties that they can rely upon the Company's support in cases of unlawful harassment or discrimination at work.

**2.2** The Company is fully committed to providing a good and harmonious working environment that offers equal treatment and equal opportunities for all its employees and where every employee is treated with appropriate respect and dignity.

**2.3** All employees will be made aware of the requirements of this policy and will be obliged to co-operate to

ensure that the policy is carried out effectively. The policy will be [displayed at all sites and will be] included in the [staff handbook] [induction packs of all new employees].

**2.4** The Company recognises that the provision of equal opportunities in the workplace is not only good management practice but that it also makes sound business sense. The Company's equal opportunities policy is designed to help all employees develop their full potential and to ensure so far as practicable that the talents and resources of the workforce are fully utilised to maximise the efficiency of the organisation. However, no policy of this sort can properly accommodate all possible circumstances and therefore this document should be seen as creating guidelines only and not contractual obligations on the part of the Company.

### **3 RESPONSIBILITIES**

**3.1** Whilst the Company recognises that the overall responsibility for the effective operation of this policy lies with the [Board of Directors], all employees, whatever their position within the Company, have some measure of responsibility for ensuring its effective implementation. In this respect, employees should ensure that:

- (a)** they co-operate with any measures introduced to develop equal opportunities;
- (b)** they refrain from taking discriminatory actions or decisions which are contrary to either the letter or spirit of this policy;
- (c)** they do not harass, abuse or intimidate other employees, job applicants, customers, providers of services or members of the public in a manner contrary to either the letter or the spirit of this policy;
- (d)** they do not instruct, induce, or attempt to induce or pressurise other employees to act in breach of this policy;



**(e)** they advise the Company if they are aware of any discriminatory conduct, either against themselves or any third party contrary to the spirit of this policy, so that the Company can take steps to deal with it at an early stage.

**3.2** Breaches of the Company's equal opportunities policy and procedures will usually result in the Company's disciplinary procedure being invoked against the individual responsible. In serious cases the perpetrator may be dismissed.

**3.3** Employees deliberately breaching these provisions may also face legal proceedings against them personally.

## **4 RECRUITMENT**

**4.1** No vacancy will be advertised or publicised (internally or externally) in a way which discourages viable applications from any sector of the population.

**4.2** All applications will be considered on merit. Each individual will be assessed so far as practicable against a set of objective, non-discriminatory criteria which will be directly related to the demands of the particular vacancy.

**4.3** All advertisements, application forms and other external recruitment material will clearly state that the Company is an equal opportunities employer.

**4.4** All interviews will be conducted in accordance with the terms and spirit of this policy. The questions asked of candidates will be closely related to the selection criteria and will be asked in order to elicit information which will give a fair assessment of that particular applicant's ability (technical and non-technical) to perform the tasks required by the vacancy, including any particular needs it may impose in any respect, e.g. hours, language skills etc.

**4.5** No one sector of the population will be deliberately disadvantaged or discriminated against in relation to the terms of employment offered or applied to them. When aware of the need to do so, the Company

will make reasonable adjustments to its arrangements for interviews and to conditions of employment for disabled applicants to ensure so far as practicable that existing arrangements or conditions of employment do not place such applicants at an unjustified and significant disadvantage relative to other applicants.

- 4.6** If there is a genuine and lawful reason for limiting the vacancy to a particular group, this will be clearly stated together with the grounds for it, on any advertisements. The Company retains the discretion to invite applications from individuals whose jobs may be at risk of redundancy, or who are being redeployed for health and safety reasons before advertising any post more widely. However, internal candidates for a particular post will not be preferred to more suitable external applicants.
- 4.7** [Application forms will include a detachable anonymous gender, ethnic and disability monitoring form to assist in the maintenance of records and for monitoring purposes by the [HR Department]. This form will be separated from the application form before the commencement of the selection process.]

## **5 TERMS AND CONDITIONS OF EMPLOYMENT**

- 5.1** The Company will take all reasonable action to ensure that terms and conditions of employment and access to employee benefits are not offered on discriminatory grounds and are in accordance with the spirit of this policy.
- 5.2** The Company will review and monitor working practices i.e. allocation of work, training and development opportunities.
- 5.3** Nothing in this policy prevents differences in training provision and pay and benefits, etc. where they are justified on other objective grounds.

## **6 PROMOTION**

Applicants for promotion will be considered only on the basis of their skill, aptitude, availability, experience and general overall suitability for the vacancy. All decisions about an individual's promotion will be made in accordance with the objective selection criteria outlined in the job specification.

## **7 TRAINING**

**7.1** The Company recognises that training and understanding of the matter is an important factor leading to equal opportunities at work. It will encourage employees to increase awareness, knowledge, and skills for implementation of this policy.

**7.2** As a means of encouraging a favourable working environment, equal opportunities will be part of the induction for all new staff. Other training may be provided in response to legislative changes or by way of refresher from time to time.

## **8 POST TERMINATION**

**8.1** The Company will not unlawfully discriminate against any individual after his employment has terminated in any way connected with his work.

**8.2** Employees are reminded that they are expected to treat ex-employees in accordance with the spirit of this policy. Informal "references" or opinions about ex-employees must not be made or given to third parties under any circumstances. All requests from third parties for information about an ex-employee MUST be referred to [HR].

## **9 COMPLAINTS AND DISCIPLINARY ACTION**

- 9.1** Where an employee believes that he or she is being harassed, victimised or discriminated against contrary to the law or to the equal opportunities policy they can invoke the complaints procedure, whether formal or informal, against the alleged harasser or discriminator.
- 9.2** Every complaint will be investigated and dealt with without bias and as quickly as is practicable. The Company recognises that some complainants may prefer not to have their names used going forward. The Company will seek to accommodate such requests as far as practicable but staff will appreciate that if the Company is unable to mention names or identifying incidents this may limit its ability to investigate the complaint with the alleged perpetrator. This in turn may limit the extent to which the Company can pursue the complaint and/or take action against the perpetrator.
- 9.3** Every effort will be made to ensure that employees who make a complaint in good faith will not suffer any further detriment or be victimised because of making such a complaint. Any complaint of victimisation will be dealt with seriously, promptly and (so far as practicable) confidentially. The Company may recommend that the parties try to resolve their difference through mediation, but this will require the agreement of both.
- 9.4** Informal procedure
- (a)** Prior to adopting the formal procedure set out below an informal approach may be taken. While recognising that it may not always be appropriate, the Company recommends in most cases that employees take an informal approach as the first step to stopping the harassment. This is particularly the case where the inappropriate action or omission was a one-off and/or where the employee has reason to believe that the alleged perpetrator was suffering from stress, fatigue or illness or in some other respect not functioning normally or that he does not recognise that his behaviour may be causing upset.

- (b)** If the employee feels he has been subjected to unlawful harassment and/or discrimination or victimisation and he considers that the informal procedure is inappropriate he should, if possible, advise the harasser that their behaviour is unwelcome, must be stopped and is interpreted by the complainant as harassment and/or discrimination and/or victimisation as defined by the Company's policy statement. If preferred, this may be in writing.
- (c)** If the behaviour does not cease or the employee finds approaching the harasser difficult, further assistance is available. Employees who wish to discuss such a complaint in confidence, should contact [HR]. Alternatively a complainant may move to the formal procedure.

## **9.5** Formal procedure

- (a)** Where the informal method fails or serious harassment or discrimination occurs or if the complainant prefers, he can bring a formal complaint against the alleged harasser or discriminator. Assistance can be obtained to help the complainant do this. The complaint should be made in writing and, where possible, state the following:
  - (i) the name of the alleged harasser/discriminator;
  - (ii) the details of the harassment/discrimination/victimisation alleged;
  - (iii) the date and time when the harassment/discrimination or victimisation occurred;
  - (iv) the names of any witnesses to the harassment/discrimination or victimisation; and
  - (v) details of any action which may already have been taken by the complainant to stop the harassment/discrimination or victimisation.
- (b)** The complaint should be sent or given to the [Personnel Manager] or if the complaint is against [him][her] then to the [• ]. Where a complaint of harassment, discrimination or victimisation is received, consideration will be given to whether it would be helpful and/or practicable to separate the parties. This may involve a temporary transfer of the alleged harasser/discriminator or the complainant to another department or suspension with pay until the complaint has been resolved. This does not amount to a pre-determination of the matter.

- (c)** The [Personnel Manager] will carry out an investigation as quickly as practicable, maintaining as much confidentiality as possible at all times. The complainant should be aware, however, that if the complaint is to be properly investigated, other employees may have to be asked for witness statements and he/she may be required to answer further questions on his allegations. Please note 9.2 above.
- (d)** All employees (including the complainant) involved in the investigation are expected to respect the need for confidentiality. Failure to do so will be considered a disciplinary offence.
- (e)** The complainant will be invited to a hearing to discuss his complaint. Copies of witness statements taken may be made available to both parties. Witnesses will be encouraged to appear at any hearing if requested by either party. It is acknowledged that some witnesses may be reluctant to do so. In these circumstances, the [Personnel Manager] will, if necessary, adjourn the hearing and ask supplementary questions of witnesses in private.
- (f)** The complainant may if he wishes be supported throughout the procedure and hearing by a colleague of his choice. The employee accused of harassment or discrimination will also have the right to be accompanied at the hearing in accordance with the Company's disciplinary procedures.
- (g)** The complainant must make all reasonable efforts to attend the grievance hearing. If he fails to attend without proper excuse, the Company may proceed with the hearing in his absence and draw such inferences as are appropriate from the material in its possession and from his absence. The complainant should bring with him any witnesses to fact or documents he wishes the Company to take into account.
- (h)** If the offence is proved the severity of the penalty imposed on the harasser will be consistent with those detailed in the disciplinary procedure. Serious harassment or acts of deliberate discrimination or victimisation may result in summary dismissal. Where a lesser penalty is appropriate, for example a written warning, this may be coupled with action to ensure, as far as practicable, that the complainant is able to continue working without embarrassment or anxiety. After discussion

with the complainant the Company may transfer one party to a different work area, or arrange for an amendment of working practices to minimise contact. This may depend on whether the allegation made is upheld or not, and if so, whether in whole or part only.

- (i) The Company is not obliged to take formal disciplinary action where it reasonably considers the question remedied by some lesser steps. The result of the hearing will be confirmed in writing to both parties, though the precise details of any formal action taken against someone found to have breached this policy will remain confidential between him and the Company in most cases.

**(j) Appeal**

- (i) If the matter is not resolved to the complainant's satisfaction then he may appeal in writing to [• ] ("the appeal manager") [or such person as the Company may decide is appropriate].
- (ii) If the complainant wishes to appeal he must notify the appeal manager in writing within 7 days of the decision complained about. The letter should indicate the full grounds upon which the appeal is made.
- (iii) The conduct of the appeal shall be a matter for the appeal manager who may call such witnesses and consider such documents as he feels appropriate. He may also adjourn the appeal to conduct any further enquiries that he believes are necessary.
- (iv) The complainant must make all reasonable efforts to attend the appeal hearing. If he fails to attend without proper excuse, the Company may proceed with the hearing in his absence and draw such inferences as are appropriate from the material in its possession and from his absence. The complainant should bring with him any witnesses to fact or documents he wishes the Company to take into account.
- (v) The Company will inform the complainant of its final decision after the appeal hearing. The decision made at the appeal will be final and there is no further right to appeal.

**9.6** Employees will be protected from harassment, victimisation or discrimination for making a good faith complaint or assisting in an investigation. Any acts of retaliation or intimidation against an employee making or assisting such a complainant will be treated as a disciplinary offence.

**9.7** An employee who maliciously makes or assists in an unfounded complaint will be subject to disciplinary action and may be dismissed.

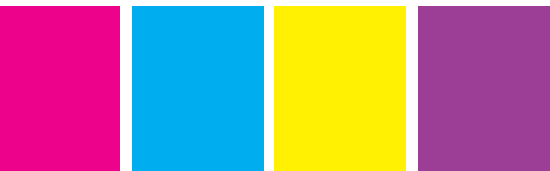
## **10 DISCIPLINE**

Any acts of discrimination or acts which contravene this policy may result in the disciplinary procedure being invoked against the employee responsible or involved. In severe or deliberate cases, an employee may be dismissed without notice. Details of the Company's disciplinary policy are available from [• ] [set out in the Company handbook].

## **11 MISCELLANEOUS**

**11.1** For the purposes of the protections which this Policy intends and the behaviours which it requires, "employee" includes agency works and contractors. However, Sections 4-8 of this Policy do not apply to agency workers and contractors as they will have separate avenues of recourse via their employing company or agency.

**11.2** "He" is used to cover both genders.





# 5 Ten top tips to minimise the risk of costly discrimination claims

It is clearly important to ensure legal risk is minimised. In this section, City employment law specialists, Fox Williams, share their top ten tips for avoiding costly discrimination law claims.

## 1 Update employment contracts and HR policies and procedures

Comprehensive, well-drafted and up-to-date employment documentation greatly assists in protecting an organisation from employment law claims including discrimination claims. Most large financial institutions already have good employment documentation and take considerable trouble to update this documentation to reflect changes in the law, best practice and corporate experience. This is well worth doing. It is also worth checking that the HR department holds a signed copy of the employment contract applicable to each employee in the organisation.

Smaller and growing organisations may not yet have the fully comprehensive documentation of the larger and longer established players. Building up good corporate employment documentation does take time. If an organisation is starting out, the key documents are as follows:

- (a) a standard employment contract containing all the statutory particulars and containing the core terms of employment;
- (b) a grievance procedure including a procedure for dealing with alleged harassment and bullying;
- (c) a disciplinary procedure; and
- (d) an equal opportunities and diversity policy.

As an organisation grows and develops, it normally builds on these core documents by gradually assembling an employee handbook containing various other policies and procedures as well as the essential compliance procedures required in a financial institution.

There are many different ways in which good employment documentation assists in reducing the risk of employment claims. There are too many to mention here, but examples include: having the contractual right to suspend alleged wrongdoers (e.g. someone accused of serious harassment) and having the contractual right to terminate employment for serious wrongdoing including breaches of the equal opportunities policy. Good

procedures also enable the organisation to handle management decisions in a non discriminatory fashion (see below).

Good employment contracts and policies set a clear framework within which HR, line management and the workforce as a whole can operate with a common understanding of the values and standards applicable across the whole organisation and the consequences of falling below those standards.

## **2 Run diversity training courses for HR and line management**

Making sure members of HR and line management abide by the stated aims and policies of an organisation is just as, if not more important, than having the policies and procedures in place. There are many different ways of conveying the diversity message but videos and drama training can be effective ways of raising awareness of the behaviours that cause offence and distress and also illustrate how prejudice and stereotypical assumptions about other human beings cloud judgement and lead to discriminatory decisions. This type of training can help to change the behaviours of individual managers and to bring about culture change within the organisation as a whole.

As well as soft skills training, it is also valuable to provide clear briefings to management on current discrimination legislation and the serious consequences of breaching this legislation both for the organisation and for individual perpetrators. Raising awareness of the serious business risks involved does help to ensure that managers are more careful in their dealings with staff. Also, in the employment tribunal, evidence that the organisation has taken its obligations under the discrimination legislation sufficiently seriously to brief and train its management considerably assists the organisation in mounting a defence to a discrimination claim. Obtaining management “buy in” to a diversity training programme can be difficult if line managers consider the training to be of marginal importance to their day to day jobs. To ensure the effective take-up of training and diversity initiatives senior management must lead from the top and convey the message that such training programmes are not optional. It is important to refresh and repeat diversity training programmes from time to time in order to update everyone on current legislation and best practice and to include new joiners

### **3 Follow the firm's procedures for taking key management decisions such as recruitment, promotion, disciplinary action and dismissal**

These procedures should comply with legislation, the ACAS Code on Disciplinary and Grievance Procedures and the guidance provided by employment case law. A failure to follow the ACAS Code can lead to a significant uplift in any compensation awarded for discrimination and this is reason enough for following the procedures set out in the Code. However, there are many other very good reasons why following the Code is important. The procedures provide a framework within which objective and fair decisions (see below) can be taken in relation to existing members of staff and candidates for employment. They provide a mechanism for assessing each individual properly by reference to relevant not irrelevant and potentially discriminatory factors. They allow for an objective comparison of candidates, provide an opportunity for those affected by management decisions to put forward their views and allow for the proper communication of reasons for decisions with rights of appeal in certain circumstances.

### **4 Communicate the reasons for decisions to those affected by them**

Employment tribunals can infer that a decision has been taken on a discriminatory ground if there is no other adequate and convincing explanation for a decision. However, if the employer communicates the reasons why a particular candidate has been unsuccessful in securing a job or promotion or why it has taken the decision to dismiss or discipline somebody, it is less likely that an employment tribunal will be able to infer discrimination at a later date. If the reasons are clearly communicated and documented contemporaneously, such evidence will be very persuasive in relation to an employment tribunal that is endeavouring to establish the true reason for the action complained of many months after the event.

### **5 Take decisions about people on relevant and objective grounds**

Decisions about people should be taken on objective grounds after undertaking a proper and rigorous assessment of the individual's skills and qualities that are relevant to the role or issue in question. These principles are clearly articulated in the case law. The organisation should remove as far as possible personal and subjective factors which could taint the decision taking process with prejudice and/or stereotypical

assumptions about individuals. Objective assessment of individuals can be difficult. In relation to existing members of staff, a good appraisal system that is consistently and promptly followed by management across the organisation is very helpful as a basis for subsequent management decisions. Promotions, for example, are very visible to the workforce, who will know the employees in question. It is important that honest and accurate assessments of individuals are carried out. An appraisal that glosses over someone's weaknesses can come back to haunt the organisation when it wishes to dismiss an individual or select them for redundancy on account of those same weaknesses that have never been communicated. The absence of accurate assessments of individuals' skills and qualities can make it difficult to justify management decisions thereby allowing scope for an inference of discrimination in any subsequent tribunal case. This will be even more important once the default retirement age of 65 is abolished in 2011.

Recruitment procedures should also be based on objective assessments of individuals. The recruitment process should start with a clear definition of job roles, job competencies and the criteria for assessing a candidate's suitability for a role. Recruiters should record their assessment of candidates including comments on the candidate's performance at interview. This will allow an organisation to explain why a particular candidate was not appointed should a claim be presented to an employment tribunal.

## **6 Develop a flexible working policy**

There are an increasing number of situations where employers are required either to allow flexible working or to give proper consideration to it. This applies in particular to female employees who have childcare responsibilities but not exclusively to this group. Employers should also be considering this option when considering the position of an employee caring for an adult relative.

## **7 Be careful with email and other written records**

This is probably the most important hint. Many employers have suffered defeat in the tribunal through having to disclose embarrassing emails that provide incriminating evidence of discriminatory and poor management decisions. The golden rule is "Do not use email in relation to HR and people issues within the organisation. Pick up the telephone or have a face to face meeting instead". Only commit something to email when you are

sure that you wish to create this particular written record. Create the right type of email trail – not the wrong sort. Ensure that all members of management follow these guidelines. The key message to communicate is that all emails and other documents created about individuals may have to be disclosed to that individual or their legal adviser at a later date. These documents are both discoverable in legal proceedings and potentially disclosable in response to a subject access request under the Data Protection Act.

The only exceptions to these rules are the following privileged documents:

- documents created for the purpose of obtaining and receiving legal advice; and
- documents created in contemplation of legal proceedings.

In a tricky situation, when unsure how to deal with or document a particular management issue, it is possible to refer that issue to your in-house or external legal adviser for guidance without fear that the document you send to the lawyer or the one you receive back will subsequently have to be disclosed. Documents that are prepared for the purpose of dealing with employment tribunal proceedings are also covered by privilege and do not have to be disclosed later in the proceedings.

## **8 Advise line management to involve HR/Legal departments at the first hint of trouble**

Line management should be encouraged to refer 'people issues' to the HR/legal departments early on and not attempt to deal with them entirely on their own. Employment law is so complicated and hazardous from the viewpoint of an employer that it is best to take no chances and to seek guidance and advice even if the matter seems straightforward. Nothing to do with employees is actually straight forward anymore.

## **9 Deal with grievances properly and promptly**

Many serious employment law problems start as a grievance. Failing to deal with a grievance properly in accordance with the ACAS Code can result in an uplift in compensation subsequently awarded to an employee by an employment tribunal. Also mishandling a grievance can give rise to further claims, for example, claims for victimisation.

Even if the organisation has committed a breach of employment law, handling a grievance properly and promptly can enable the organisation either to recover the situation completely or substantially to minimise the subsequent exposure. Usually the first step in dealing with a grievance is to investigate the facts properly. If it turns out that the organisation has fallen below its usual standards, admitting this fact and putting in place remedial measures can head off a constructive dismissal/discrimination claim. This is because although discrimination may have occurred, the fact that the employer is willing both to acknowledge the breach and to put matters right can mean that the employee can still be expected to trust the employer. This means that the employee has no grounds for treating the employment relationship as fundamentally damaged giving the employee no right to claim constructive dismissal.

Where the situation is not remediable, the employer is engaged in a damage limitation exercise. At this point, the employer may be best advised to put forward the best case available to them, but to stop short of distorting the true facts. It is very dangerous to put down a story on paper which sounds good, but which is actually untrue and not supported by documentary or other evidence. Creating an inaccurate record of facts can lead to a serious loss of credibility for the employer in any subsequent employment tribunal proceedings and, moreover, can put individual witnesses for the employer in a very difficult position indeed. It is generally better to put forward an accurate document (albeit presented in the best light possible). If this means the employer is liable to compensate the employee, concentrate time and effort on establishing exactly what the employee's actual loss is and the true level of compensation due. Very often the quantum of the claim is nowhere near as high as the employee is maintaining and tribunal awards in practice can seem modest. There are many different ways in which the amount of compensation can be reduced, including a reduction for mitigation if the employee gets a new job or should have done so.

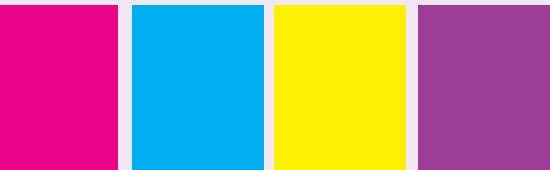
## **10 Understand the difference between 'without prejudice' and 'on the record/open' conversations**

Where the employer wishes to negotiate a compromise agreement with the employee, it is important to judge the right moment to initiate or to respond to a discussion about a compromise. The general rule is that the employer should follow the correct 'on the record' procedure through to the point where it has formally taken a correct and documented decision or is imminently in a position to do so. It is only where the decision-taking process is complete or almost complete that the employer should risk a 'without prejudice' discussion with the

employee about a possible compromise of their claims. If both parties agree discussions are 'without prejudice'; the intention is that neither party should be able to refer to those discussions in subsequent employment or court proceedings. However, if the employer initiates these conversations too early on, they may not enjoy 'without prejudice' protection. An example of this would be where an employer asks an employee out of the blue whether or not the employee will agree to a 'without prejudice' conversation about leaving the organisation. If this was the first time that the employee has heard of this, it is highly likely that this will not be treated as a 'without prejudice' conversation and instead will be treated as an 'on the record' conversation initiating the dismissal process. Since no proper process will at this stage have been followed by the employer, this is an extremely hazardous thing to do and will probably lead to a successful claim against the employer in the employment tribunal. The employer should follow the appropriate procedure for dismissal and only after this has been followed should a 'without prejudice' conversation be initiated. It is, of course, to be hoped that an employee going through the dismissal process might themselves initiate such a discussion which makes it easier for the employer safely to respond on a 'without prejudice' basis. Some employee representatives are alive to the point and do take the initiative to contact the employer during the process which can be a helpful intervention.

## Summary

As our top ten tips demonstrate, devising and following best management practice at all times is actually the most effective way of reducing discrimination law risk.



# 6 Diversity Checklist

	PROCESS	THINK ABOUT	TICK
1	<p><b>GETTING STARTED</b></p> <ul style="list-style-type: none"> <li>• Get CEO/Senior Management Buy-in</li> <li>• Identify stakeholders</li> <li>• Identify benefits to the organisation and stakeholders</li> <li>• Develop a rationale for, and objectives of, having a diversity programme</li> <li>• Build a business case for diversity and inclusion</li> <li>• Appoint a diversity committee</li> <li>• Identify a diversity champion (ie project leader)</li> <li>• Develop a diversity strategy</li> <li>• Review diversity related policies</li> <li>• Consider cultural fit with the organisation</li> <li>• Set a budget</li> </ul>	<p>Consider all stakeholders: The Board, Top Management, Middle Managers, Employees, Job Candidates, Potential Candidates, Secondees, Interns, Contractors, Customers, Suppliers, Wider Community. Have you identified them all? Do you know their needs with regard to Diversity?</p> <p>Select your diversity champion carefully and get top management sanction of your choice.</p>	
2	<p><b>SET UP</b></p> <ul style="list-style-type: none"> <li>• Identify stakeholder issues</li> <li>• Gather research from stakeholders</li> <li>• Research the activities of comparable and other organisations</li> <li>• Identify where the organisation is at present and identify the diversity milestones for the future</li> <li>• Secure sign-off on the strategy, mission and objectives of the diversity programme</li> <li>• Consider how to launch the diversity programme</li> </ul>	<p>Identify stakeholder issues: What are the benefits of diversity and how can this be achieved. Develop your objectives, mission, milestones and action plan accordingly</p>	
3	<p><b>GOVERNANCE</b></p> <ul style="list-style-type: none"> <li>• Determine reporting infrastructure ie to whom and frequency</li> <li>• Implement a diversity activity/progress reporting structure</li> <li>• Identify any rewards or recognition mechanisms for achievement of targets or outstanding contributions to diversity initiative</li> <li>• Agree metrics</li> <li>• Ensure linkage of diversity initiatives to business objectives</li> <li>• Get CEO to announce personal interest in diversity reporting and individual or team recognition</li> </ul>	<p>To add weight, to your diversity plan, consider your mechanisms for capturing data, setting targets and recognising success. See 8 below.</p>	
4	<p><b>POLICY AND PRACTICES</b></p> <ul style="list-style-type: none"> <li>• Review all equal opportunities, diversity and inclusion policies and practices to meet diversity objectives</li> <li>• Identify new policies that are needed e.g. Working Families</li> <li>• Plan carefully how to launch and communicate new policies and programmes.</li> <li>• Advise all stakeholders of the existence of policies and future training and reporting requirements</li> <li>• Ensure all policies support overall diversity goals and spot gaps or problem areas quickly</li> <li>• Plan new methods to communicate policies and keep the commitment to them alive in the business</li> </ul>	<p>Recruitment, Training, Development, Talent Management, Compensation, Promotions, Flexible Working, Maternity, Paternity. Review your advisers and suppliers, eg recruitment agencies, training consultants, benefits providers to check their diversity policies and practices.</p> <p>Consider other aspects of the business – Property and Real Estate? Catering? Building Services? Reception and Security? Do they all have policies that meet diversity needs?</p>	
5	<p><b>COMMUNICATION</b></p> <ul style="list-style-type: none"> <li>• Develop a toolkit of diversity information sources and support materials</li> <li>• Launch diversity programme and relaunch from time to time. Is it still live and vibrant? Is it still relevant to managers and employees?</li> <li>• Provide information to help all stakeholders maintain diversity on their agenda</li> <li>• On-going diversity awareness campaign</li> <li>• Communicate successes particularly individual stories</li> </ul>	<p>Research what others are doing - excellent information sources are highlighted in section 8. Think about developing websites, brochures, guides, podcasts and promoting success in your Annual Report and employee magazine/newsletter. Keep all stakeholders regularly informed.</p>	



	PROCESS	THINK ABOUT	TICK
6	<p><b>TRAINING</b></p> <ul style="list-style-type: none"> <li>• Deliver diversity awareness to all employees</li> <li>• Adapt existing training programmes to embed organisational values on diversity and to alleviate stereotyping. Link to developments in your firm’s culture. Link to Corporate Values.</li> <li>• Develop programmes aimed at specific shareholders or to support the specific needs of target groups</li> <li>• Consider the use of interventions such as coaching and mentoring and apply these where needed. Link to your talent management strategy.</li> <li>• Train those involved in management, coaching or mentoring programmes</li> <li>• Consider cross-cultural training in organisations employing or servicing different nationalities</li> <li>• Continuously evaluate and revise</li> </ul>	<p>Consider carefully the best approaches to do this. Everyone needs a minimum awareness but others (eg managers) might need more. Regularly assess new methods:</p> <ul style="list-style-type: none"> <li>- does on-line training work?</li> <li>- does it fit with regular management training?</li> <li>- is something specific needed in some departments?</li> <li>- Plan team or departmental events/programmes</li> <li>- Plan regular firm-wide events to celebrate achievements and to launch new initiatives</li> </ul> <p>Market-facing and front office divisions usually have little time so consult and be sensitive to needs. Offer short sessions and watch the time of day chosen for events.</p>	
7	<p><b>NETWORKS</b></p> <ul style="list-style-type: none"> <li>• Consider setting up internal networks to support “special interest” groups</li> <li>• Agree a leader for each network – a senior line manager?</li> <li>• Support them as they set up their charter, goals and annual plan</li> <li>• Create a reporting mechanism back to the top management committee</li> <li>• In smaller organisations, explore linkage with key external networking or support groups</li> </ul> <p>Meet regularly with those involved in networking groups to understand emerging issues, to consider remedies and to channel feedback up to top management</p>	<p>Ensure networks have a good chance of success from the beginning by setting top-level sign off. Seek business leaders to run networks and recognise their efforts - it is not easy being a role model! Support networks once they are up and running. Can they change everything in the culture? No! But they can provide significant support to their members. Support them in their communications throughout the firm.</p>	
8	<p><b>REVIEW AND BENCHMARKING</b></p> <ul style="list-style-type: none"> <li>• Evaluate the effectiveness of diversity initiatives</li> <li>• Solicit feedback on progress via employee attitude surveys, diversity surveys, diversity audits and liaison with “special interest” groups</li> <li>• Review manpower plans</li> <li>• Review Customer satisfaction surveys</li> <li>• Recognise key “wins” and publicise or reward as appropriate</li> <li>• Benchmark with competitors or against public benchmarking tools</li> <li>• Report findings to diversity committee on a regular basis</li> </ul>	<p>Also examine external sources to assess best practice and progress. Try; <a href="http://www.cipd.co.uk">www.cipd.co.uk</a>  <a href="http://www.equalityhumanrights.com">www.equalityhumanrights.com</a>  <a href="http://www.acas.org.uk">www.acas.org.uk</a>  <a href="http://www.diversityworksforlondon.com">www.diversityworksforlondon.com</a>  (includes diversity toolkits support and benchmarking programme). More specific sources can be found in chapter 7 of this publication.</p>	
9	<p><b>SUSTAINABILITY OR KEEPING IT GOING</b></p> <ul style="list-style-type: none"> <li>• Develop a strategy for keeping diversity on the agenda during good times and bad</li> <li>• Review diversity committee, policies and initiatives to ensure that tangible progress is being made</li> <li>• In tough times, pay particular heed to diversity – particularly the bullying and harassment elements – as employees may be tempted to cut corners when the pressure is on. Have a strategy for offering the right support to all individuals</li> <li>• Promote successes</li> <li>• Include diversity in the formal Annual Report so that external stakeholders (eg suppliers, third party relationships, shareholders) can appreciate the steps being taken</li> <li>• Consider having an internal Diversity Annual Report or awards so that employees get the message. Diversity really counts.</li> </ul>	<p>Remind stakeholders of the benefits of having a diversity agenda and the importance of sticking to this even during tough times. Remember: issues such as talent management, employer of choice status, customer satisfaction are <b>always</b> important, so stay on track.</p>	

# 7 Sources of help

There are many sources of help on the internet. The following are the best places to start.

The Chartered Institute of Personnel and Development [www.cipd.co.uk](http://www.cipd.co.uk)

Government Equalities Office [www.equalities.gov.uk](http://www.equalities.gov.uk)

Equality and Human Rights Commission - [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

ACAS [www.acas.org.uk](http://www.acas.org.uk).

The London Development Agency sponsors Diversity Works for London [www.diversityworksforlondon.com](http://www.diversityworksforlondon.com)

Opportunity Now [www.opportunitynow.org.uk](http://www.opportunitynow.org.uk)

Race for Opportunity [www.bitc.org.uk/workplace/diversity\\_and\\_inclusion/race/](http://www.bitc.org.uk/workplace/diversity_and_inclusion/race/)

Employers' Forum on Age [www.efa.org.uk](http://www.efa.org.uk)

Employers' Forum on Belief [www.efbelief.org.uk](http://www.efbelief.org.uk)

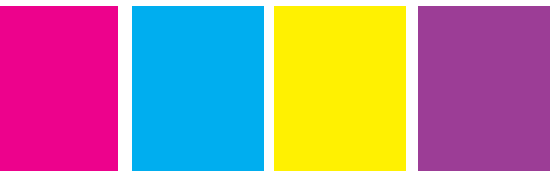
Employers' Forum on Disability [www.efd.org.uk](http://www.efd.org.uk)

Working Families [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

Stonewall [www.stonewall.org.uk](http://www.stonewall.org.uk)

Centre for Work-Life Policy (US organisation) [www.worklifepolicy.org](http://www.worklifepolicy.org)

Women in Banking and Finance [www.wibf.org.uk](http://www.wibf.org.uk)



# 8 A Final Word – What organisations can expect from the City HR Association

Diversity is an evolving issue for employers in all walks of life, not just in the City. However, as the representative body for HR best practice in the financial services sector and supporting industries, we are committed to helping our members to maintain and increase diversity issues on the corporate agenda.

There are numerous ways in which we will facilitate this, namely:-

- Constantly reviewing best practice in all facets of diversity and promoting this to our members so that we can all build on policies that make a difference;
- Benchmarking diversity best practice, through the City HR Benchmarking Survey which takes place in alternate years (2012 is the next one) and examines this issue from every angle. This includes family friendly policies, flexible working, the enhancement of return to work rates for maternity leavers, parental leave and networking groups (internal and external) aimed at every diversity group;
- Employment law updates on subjects such as the Equality Act 2010 through to the Default Retirement Age communicated at our quarterly member fora and in our Update Newsletter;
- Providing necessary training for HR practitioners, managers and employees alike to ensure that the benefits of a diverse and inclusive society are evident to all;
- Liaising with the appropriate bodies, such as the Equality and Human Rights Commission (EHRC) and the Financial Services Authority (FSA) so that our industry understands what is required of them, now and in the future.

We regularly run sector networking groups for most disciplines within financial services and are able to provide a Diversity expert either from line HR or an employment lawyer – or both - upon request.

Finally, we see diversity as an on-going area of activity for both the Association and our membership. Consequently, progress in this field will be reviewed by our Diversity Working Party and further publications or surveys will be issued from time-to-time.

We hope that you find this publication useful and sincere thanks go out to Louise Redmond, Chair Working Party, and her team of enthusiastic professional supporters.



Other publications in the City HR best practice series include:

2010 (due December)

London and the Summer of 2012

Winning HR Policies

2008

Bullying & Harassment

2006

Guidance on the Employment Equality (Age) Regulations 2006



City HR Association  
27 Austin Friars  
London EC2N 2QP

Tel: 020 7670 1932/3/4

E-mail: [info@cityhr.co.uk](mailto:info@cityhr.co.uk)

Web: [www.cityhr.co.uk](http://www.cityhr.co.uk)

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Price £45