



# How to make your law firm more inclusive: *A ten step guide*

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# Outline

The importance of having an inclusive workplace could not be more critical. Diverse and inclusive workplaces make greater financial gains and are more representative of their clients than their competitors. Conversely, a lack of inclusion can lead to unhappy lawyers who are unproductive and ineffective, leading to an attrition of talent that results in low morale and a poor reputation. Recent examples from the #MeToo and #TimesUp movements, as well as the gender pay gap reporting legislation, have demonstrated that a sizeable proportion of individuals in law firms feel disengaged, excluded and dissatisfied. It is clear that despite concerted efforts by firms over the past few years, law firms still have a long way to go to address issues of inclusion, wellbeing and equality.

This whitepaper, produced jointly by Fides and byrne•dean, will provide guidance on how to drive higher levels of inclusion and wellbeing in law firms. We will build on the themes discussed at the panel event run by byrne•dean and Fides 'Helping partners show that people matter', results from our inclusion and wellbeing survey of City law firms, and the individual contribution of expert commentators.

# Background

The business benefits to organisations that are more inclusive and foster wellbeing are well documented. The Gallup Q12 Global Survey found that more engaged workforces were up to 22% more profitable than their competitors<sup>1</sup>, whilst the London Business School found that organisations with high levels of employee wellbeing outperformed the stock market by 2-3% per year over a 25 year period.<sup>2</sup> Furthermore, McKinsey found that companies in the top quartile for gender and ethnic diversity were more likely to have financial returns above their industry medians, by 15% and 35% respectively.<sup>3</sup>

But the importance of inclusion and wellbeing goes beyond the financial. Numerous studies have shown with substantial evidence that wellbeing promotes health, energy, optimism, creativity, altruism, and work performance.<sup>4</sup> Happier employees also tend to remain with their employers longer and raise the morale (and hence performance and retention) of others in the organisation. On the other hand, unhappy employees cost UK businesses £33 billion to £42 billion per year on average due to absence and poor work performance, roughly 2% of UK GDP.<sup>5</sup>

Despite concentrated efforts by law firms over the past few years to introduce policies to address inclusion, diversity and wellbeing in their organisations, progress has been difficult to achieve.

Only 4.8% of partners from the UK's largest law firms are from BAME backgrounds, whilst the total number of female partners remains flat at 18% in the top 10 firms and 19% in the top 11-25 firms.<sup>6</sup> This discrepancy can be seen in the first round of gender pay reporting, which showed an average pay gap of 29% for the UK's top 50 law firms, significantly higher than the 9.7% median pay gap for all UK companies, even when partnership figures were not included.<sup>7</sup> One in two partners at magic circle firms are privately educated, compared with just 7% of the general public, which also suggests that social mobility in the legal profession has barely changed over the past 30 years.<sup>8</sup>

Furthermore, an increasing number of lawyers – especially those in private practice – experience poor mental health. A survey of 13,000 lawyers by the American Bar Association's Commission on Lawyers Assistance Programs (CoLAP) found that between 21 and 36 percent qualified as problem drinkers, whilst 28% have suffered with depression, 23% with stress and 19% with anxiety respectively.<sup>9</sup> It is estimated that approximately 20% of the profession suffer from mental health problems annually in the UK according to a survey by Keystone Law.<sup>10</sup>

With Gallup research suggesting that career wellbeing is the single most important element of one's wellbeing, law firms must also ensure the mental and emotional health of their employees if they wish to remain competitive.<sup>11</sup>

In short, having an organisational culture that is both inclusive and supportive of the wellbeing of the individual will drive the productivity, retention and performance of law firms. The rest of this whitepaper focuses on the key factors law firms need to consider to bring the best out of their people.

<sup>1</sup>Sorenson, S. (2013) 'How Employee Engagement Drives Growth', Gallup Business Journal, June 20th. Available at <http://news.gallup.com/businessjournal/163130/employee-engagement-drives-growth.aspx>

<sup>2</sup>Edmans, A. (2014) 'Employee Satisfaction and firm value: A global perspective', VOX CEPR Policy Portal, July 25th. Available at <https://voxeu.org/article/employee-satisfaction-and-firm-value>

<sup>3</sup>Hunt, V., Layton, D. and Prince, S. (2015) 'Why Diversity Matters', McKinsey, February. Available at <https://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters>

<sup>4</sup>Huang, P. H. and Swedloff, R. 'Authentic Happiness and Meaning at Law Firms', 58 Syracuse Law Review 335 (2008). Available at SSRN: <https://ssrn.com/abstract=1086675>

<sup>5</sup>See Stevenson, Lord, D. and Farmer, P. (2017) 'Thriving at Work: a review of mental health and employers', Department for Work and Pensions and Department for Health and Social Care, 26th October. Available at <https://www.gov.uk/government/publications/thriving-at-work-a-review-of-mental-health-and-employers>

<sup>6</sup>See The Law Society of England and Wales (2016) 'Diversity Profile of the Solicitors Profession 2015'. Available at <https://www.lawsociety.org.uk/about-us/documents/diversity-report-october-2016/> and PwC (2018) 'Annual Law Firms' Survey 2017'. Available at <https://www.pwc.co.uk/industries/business-services/law-firms/survey.html>

<sup>7</sup>Figure relates to the median pay gap within top 50 firms. See Whewey, B. (2018) 'Lies, damn lies and the gender pay gap statistics – what do the figures really tell us?' Legal Week, April 9th. Available at <http://www.legalweek.com/sites/legalweek/2018/04/09/lies-damn-lies-and-the-gender-pay-gap-statistics-what-do-the-figures-really-tell-us/>

<sup>8</sup>Smith, C. (2015) 'Social mobility little improved at the top of the profession', The Law Society Gazette, November 23rd. Available at <https://www.lawgazette.co.uk/practice/social-mobility-little-improved-at-top-of-profession/5052362.article>

<sup>9</sup>Krill, P.R., Johnson, R. & Albert, L. (2016) The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys. 'Journal of Addiction Medicine', Vol. 10, Issue 1, Jan/Feb. Available at [https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The\\_Prevalence\\_of\\_Substance\\_Use\\_and\\_Other\\_Mental.8.aspx](https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx)

<sup>10</sup>Keystone Law (2016) 'Lawyers and the Pursuit of Happiness'. Available at [https://keystonelaw.co.uk/application/files/5714/7626/1331/Lawyer\\_Happiness\\_Survey\\_HR.pdf](https://keystonelaw.co.uk/application/files/5714/7626/1331/Lawyer_Happiness_Survey_HR.pdf)

<sup>11</sup>Rath, T. and Harter PhD, J. (2010) 'The Five Essential Elements of Well-Being', Gallup Business Journal, May 4th. Available at <http://news.gallup.com/businessjournal/126884/five-essential-elements-wellbeing.aspx>

# Creating change

From our research, survey findings and expert commentary, we have identified ten changes that law firms could make to generate higher levels of workplace inclusion and wellbeing. These changes would need to take place at the individual, team and organisational level for law firms to start to see a real shift in workplace culture.



# Individuals need to...

## 01.

### Articulate what inclusion means to them personally

Organisations cannot create behaviour change without the emotional and psychological investment of their workforce. "People need to individualise what inclusion means to them, and act on these beliefs", according to byrne•dean co-founder, Matt Dean.

As inclusion means different things to different people, law firms must help their people to understand what it means to them personally and how it fits into their own value systems. Then they need to be empowered to act in line with their values by making changes to the way they interact with their colleagues on a day-to-day basis. "By stressing that everybody is a leader, everybody is important and that everybody has the capability to make a difference, law firms set the foundations for culture change" says Matt.

## 02.

### Take action

Once individuals internalise what they think it means to be inclusive, they then need to be prepared to go outside of their comfort zone and act in accordance with these beliefs. This can be done in the following ways:

#### **Talk to people**

Have conversations with colleagues and share your experiences. "Get to know the people that you work with and how to get the best out of them to perform", says CEO of Working Families, Sarah Jackson.

#### **Call out the 'bad' behaviour of others**

Employees need to understand what amounts to inappropriate and/or non-inclusive behaviour. Such behaviour then needs to be called out, both by management and peers, as individuals need to be seen to be held to account.

#### **Be self-aware and make small changes**

Take into account the people you associate with and your own 'shadow of influence', and take steps to make it clear in your day-to-day interactions that you value inclusion and wellbeing. For example, strike up a conversation with someone you do not normally talk to, actively challenge assumptions or work allocation preferences, or set boundaries on how late you respond to emails.

#### **Take accountability for your own mental health and wellbeing**

Role model positive work-life balance, and proactively support the health and wellbeing of your colleagues whilst encouraging others to do the same.

Results from our own survey into inclusion and wellbeing at law firms revealed that less than 50% of respondents thought the partners at their firm cared about their wellbeing. Moreover, it was felt more genuine support from managers and partners would be the most effective change law firms could make to achieve a more inclusive organisational culture.<sup>12</sup>

<sup>12</sup>Clews E. (2018) 'Inclusion and Wellness in the Legal Sector: Survey Results', Fides Search. Available at <http://www.fidessearch.com/fides-weekly-update-2nd-february-2018/>

# Elected management and partners need to...

## 03.

### Reinforce the business case

For everyone in an organisation to care about inclusion and wellbeing, management need to articulate why this is important. "Do leaders really understand that the success of their firm is based on the success of its people, and that that is based on their wellbeing?" questions Sarah Jackson from Working Families.

"Leaders need to highlight progress, but also share negative statistics about their firm to emphasise that this is an area of continuous improvement" says Diversity & Inclusion Consultant at Pinsent Masons, Kate Dodd.

## 04.

### Set a communication strategy

The success of any firm-wide inclusion or wellbeing policy or initiative hinges on how well this is communicated by management and partners. Alongside reinforcing the business case, clearly defined objectives on inclusion and wellbeing must be set by the firm's management and at group level, with constant communication to employees at all levels by those who are trying to deliver inclusion.

"Firms who are serious about the wellbeing of their people need to think about how they communicate, and the consequences of this if it is misinterpreted" says Sarah Jackson of Working Families. She suggests firms invest in communicating in areas around maternity policy and shared parental leave as it brings up a generation of new leaders who have a new perspective. "Leaders of firms who want to see change need to invest in the younger generation, as what they will see as the norm is different".

## 05.

### Be role models for change

Inclusion and wellbeing initiatives need to be set from the top, and desired behaviour role-modelled by those in charge. For example, spearheading diversity or wellbeing committees and sharing personal experiences will go a long way to securing engagement from others within the firm and reducing the stigma associated with mental illness and substance abuse disorder.

"Leaders in law firms need to accept that everyone struggles sometimes, and recognise that mental health is a spectrum on which we all move around" says Richard Martin, lead on mental health at byrne•dean. "For mental health in law firms to improve, senior management need to give people the permission, alongside the knowledge and the language (which comes through training), to have conversations".

# Law firm HR and diversity and inclusion professionals need to...

## 06.

### Know the limitations of policies alone

Inclusion and wellbeing policies will only be effective if the firm, and particularly management and partners, are emotionally bought in to their success. "Policies are a starting point, but behaviours need to be seen in practice" notes Julian Taylor, International Head of Employment at Simmons & Simmons. "Inclusion has to be given preference, because then the figures will look after themselves" agrees Matt Dean of byrne•dean. This finding was echoed in our survey research which found that, despite two thirds of respondents being aware of their firm's inclusion and wellbeing policies, only half considered them to be effective.

"You need to personalise initiatives and share stories" says Kate Dodd, using Pinsent Mason's involvement in the This is Me campaign as an example. "We need to talk with the right intention and learn how to better ourselves through talking" she said. Sarah Gregory, Inclusion and Diversity Partner at Baker McKenzie agrees; "This helps individuals recognise who might be feeling a bit excluded and why they might be feeling this way."

## 07.

### Gather feedback

'If you can't measure it, you can't improve it' – as the saying goes. Law firms need to go to great lengths to understand where problems sit within their organisations, before taking steps to introduce inclusion and wellbeing policies.

"You need to ask questions of staff – not just assume what the problem is – and not do what competitors are doing just for the sake of it" says Kate Dodd. Julian Taylor highlighted the importance of regular one-to-one associate-partner meetings at Simmons & Simmons, so much so that they have since made this policy mandatory.

Our experts all noted the importance of staff consultations and surveys, group discussions and formal and informal feedback to inform inclusion and wellbeing policies.

"It's about establishing values, leading from the front and then measuring them" said Executive Partner at Eversheds Sutherland, Ian Gray. "Making inclusion and wellbeing part of your performance management and feedback empowers management to have conversations with individuals who act out of line."

## 08.

### Consider all stages of the employee lifecycle

“The workplace comes first” argues Baker McKenzie’s Sarah Gregory. “It was built by a non-diverse group asking diverse people to ‘fit within it’”. As such, law firms need to focus on all stages of the employee lifecycle in their inclusion and wellbeing efforts (recruitment, on boarding, development and retention) as this will drive culture change organically.

“When assessing our inclusion and wellbeing strategy, we ask ourselves – If we were building a workplace now, what would we want it to look like?” says Sarah.

## 09.

### Acknowledge the international

“Firms need to acknowledge international offices and engage international partners – not just make them a blueprint of London” says Kate Dodd of Pinsent Masons. They introduced global statements of policy which apply across all locations, and implement minimum standards, whilst also taking account of the legal and cultural differences in each jurisdiction.

## 10.

### Tackle change as a team

HR and D&I professionals need to ensure a joined up approach to the delivery of inclusion and wellbeing policies. “There needs to be constant communication between those who are trying to deliver inclusion at all levels, and I am not satisfied that there is sufficient upward-downward communication in these areas” said Roger Parker, former Managing Partner of Europe at Reed Smith.

Our research showed that wellness policies were judged to be less effective than policies to address inclusion and diversity, with 28% of respondents considering them to be ineffective.

As such, the respective teams and individuals responsible for improving diversity and inclusion, and mental health and wellbeing in law firms, need to share collectively what their objectives are and provide feedback on how initiatives are landing.



# Conclusion

The findings from our panel event, law firm survey and expert commentators can be distilled down into three main themes:

## Culture change comes from individuals changing the conversations they have

You need to get individuals emotionally engaged if you ever want to see behaviour change, and this must be reinforced at the team and organisational level.

## Don't underestimate the importance of the business case

Tell members of your firm why you are doing this, and make it specific. For example, connect it to the number of female client contacts your firm has or the cost to the business to replace employees through sickness or attrition.

## Measure everything, gather feedback and communicate

If you can't measure it you cannot improve it. Take steps to collect feedback on inclusion and wellbeing policies and initiatives, as well as wider organisational culture, and communicate your findings, both good and bad. This will enable you to show that changes are being made, celebrate progress (or share learning from unsuccessful initiatives) and, most importantly, emotionally engage your workforce.





### List of contributors

A special thanks to all those who contributed to the research of this article through their individual contribution, completing our Inclusion & Wellbeing survey or attending our 'Helping Partners show that People Matter' panel event. We relied heavily upon the following industry experts for their invaluable insight that helped shape the direction of this paper, and would like to recognise them for giving us their time.

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