

Diversity

A best practice guide for City firms



Authors and Acknowledgements

The City HR Association Diversity Best Practice Working Group is a network of members of the City HR Association who want to find out about, learn and disseminate best practice in diversity.

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Introduction

I am pleased to introduce this best practice guide to diversity in the City. It is one of a series of 'Best Practice' publications produced by the City HR Association. The true value of this guide lies in the extensive experience of the City specialists who contributed to it. We surveyed representatives of small to large City firms who offered candid views and shared their practical experience. What results is a unique product that reflects diversity in the City today.

The guide provides an overview of what is happening in City firms. Diversity remains a relevant topic in spite of the dramatic changes of autumn 2008. The guide aims to provide a general picture dependent on the priorities given to us by the surveyed firms. It is not intended to deal with any specific diversity issue in any detail or depth. City HR Association will continue to monitor specific trends in diversity and produce other guides and materials in the future.

This guide will be particularly useful to those who would like to benchmark their diversity work against other City firms or to those who want to get started on diversity for the first time. As well as a summary of what many other firms are doing, we offer a framework for a diversity programme, a specimen diversity policy which can easily be adapted, ten top tips to minimise your legal risk, and a handy checklist to let you keep track of your own progress. There are also frank and honest case studies on specific initiatives that have been shared by some of the contributing firms; these firms include the large and the small, the subsidiary and the head office in order to reflect the diversity of the City itself. We also include the sources of help that we have found to be most pertinent – there are a lot of materials out there, so be prepared to learn from others!

My sincere thanks to all who engaged with us on the project and contributed ideas and materials. The working group was of itself a lively and provocative forum. My thanks to them for making this guide happen during the difficult business conditions of 2008.

Louise Redmond

Chair of the Diversity Best Practice Working Party, City HR Association
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1 Diversity and the City

Many City firms have a diversity agenda. Often this has been developed locally in London; occasionally it is part of a wider strategy from an overseas group office. More often than not the diversity agenda has been prepared to meet the highly specific needs of the firm. We surveyed a total of 15 firms to find out what they were doing and why. Although some of the firms we surveyed were UK owned or managed, many had overseas head offices in the Americas, in Asia, Continental Europe or the Middle East. These organisations often addressed diversity on a global as well as a local basis. They all sought to make continuous improvements dependent on their business needs and on their own performance and feedback from their employees.

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. Some of these differences have the potential for a huge impact in the workplace. 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.

The term 'diversity' can produce responses as varied as the subject is broad. For some the anxiety is that it is an exercise in compliance or in political correctness such as learning what you can and can't say. For many organisations their understanding of diversity has moved forward considerably, with the business case self-evident. It is about utilising the skills of all for the betterment of everyone. It is about creating a culture of respect, and creating 'the best place to work' - understanding difference in such a way that firms create a competitive edge that sets them apart as an employer and sets them apart as a business.

'A human being is part of a whole called a Universe. We experience ourselves, thoughts and feelings as separate from the rest – a kind of delusion of consciousness. This delusion is a kind of prison to us, restricting us to those most like us in perception. Our task must be to free ourselves from our self imposed prison by widening our circle of compassion to embrace all living creatures and revel in their differences which give (nature) its unique beauty'.

Albert Einstein (1879 – 1955)

One firm described diversity as *“getting managers to be more open in the type of individual they recruit (not just the same schools, backgrounds)”*. This is a good reminder that diversity affects everyone, not just particularly minority groups as defined in the law.

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

The 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 are good employers who welcome 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
- Only 11% of FTSE 100 Board Directors are women¹
- Levels of female managers and senior managers in FTSE 350 are 20 percent below 2002 figures²
- A total of 30,000 women lost their jobs each year in the UK because they were pregnant¹
- Two-thirds of low-paid workers were women¹
- 18 per cent of sex discrimination compensation awards were for sexual harassment¹

Sources:

*'Sexism and the City' Campaign, The Fawcett Society, Complanet, April 1 2008*¹

*The 'leaking pipeline' of female future leaders, PwC, Complanet, 10 March 2008*²

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?

Let's start at the beginning. The City has had its own stereotypes; consider the picture of the 'City Gent' with his pinstriped suit and conservative tie, the 'Trader' with his brash and colourful character and lastly the 'City PA' with her smart suit and the pre-requisite ability to deal with both of the above when they are having a difficult day.

Working in the City often feels as if we are all part of a special club; we have our own unwritten rules and working practices which can be confusing to those who are new to the environment. 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.

In asking the majority of people in an investment bank what diversity meant to them there was one overwhelming response; increasing the number of women in the workplace. This may be due to the increasing awareness of female talent management and retention issues; 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 institution with approximately 2000 staff in the City has 46 nationalities within its offices and over 50 different native languages are spoken.

Given the changes within the banking environment in September 2008 you have banks with very different, and often conflicting cultures, becoming one. Take, for example, the recent mergers and takeovers which saw Nomura (with a Japanese heritage) and Lehman (with its American history and culture) coming together. Providing guidance and awareness of how different cultures may approach the same situation or business opportunity enables organisations to move towards a more harmonious working environment.

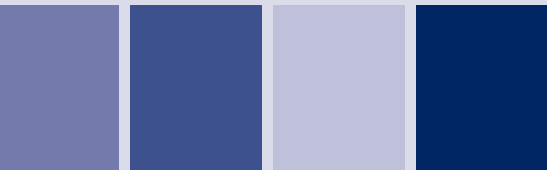
However diversity of the City workforce does not stop at culture, it also encompasses age, sexuality and more. In focussing on just one of these areas, age, there are indicators within the current workforce that individuals are extending their working life in the City.

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. Until recently, unless you participated in this, you were unlikely to be going anywhere careerwise. However technology has helped to change working arrangements (at least for some jobs) and so flexibility working arrangements have been introduced in a large number of City firms.

Government statistics currently show that more than 2.2 million pensioners already live below the official poverty line and the vast majority are older women. Just 30% of women are entitled to a full state pension when they retire because they do not earn enough or have had gaps in their working life. The new Pensions Act will improve life for retired women in the future. In October 2008 the Government announced that further measures are in hand to help female workers to plug the gap in the National Insurance contributions towards their state pensions. However the immediate fact is that many women in their late 40's and 50's currently working in the City will have to continue to work in order to continue to earn employer pension contributions. 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 want to stay in jobs and not be prepared to step aside to let a younger person take the job.

Equally, the employment tribunals often deal with the harsh reality of lack of diversity awareness and inclusivity in the workplace. The suggestion of a tribunal claim can provoke anxiety in any organisation, whether due to the potential reputational damage, the worry of legal costs and any damages that may be awarded. This may be no more likely in the City than elsewhere in the UK but the high compensation numbers involved in some City claims may particularly catch the eye.

In conclusion, the City experience is different from most other cities in the UK as a result of the fusion of different races and nationalities and its long hours, fast turnover culture which make it particularly important to address diversity issues successfully.



2 What have City firms been doing about diversity?

So just what are the diversity issues that concern City firms? And what have they been doing about them? There are of course a wide range of issues and each plays out differently in each firm depending on ownership, business streams, personalities and other influencing factors. Many of the larger City firms have made significant progress in response to the challenges they face. Indeed some of the firms we surveyed had implemented many initiatives in support of diversity. Many of these firms did not view what they had done as exceptional or special, nor did they particularly wish to showcase their efforts. They just needed to get done. However it was clear that many of their efforts were indeed worthy of a 'best practice' label.

Below are the issues and the initiatives that were most often mentioned.

Advancing women's careers

The pay gap between men and women in the financial sector is greater than for any other. You can calculate the pay gap by comparing the average pay of all men to the average pay of all women in your firm (adjusted for part-time working). Much of this gap reflects the fact that there are fewer women in senior positions. More women want to leave mid-career for family reasons. They want to work flexibly, and more chose career paths that take them out of the fast track to the top – these jobs then get labelled as the 'mommy track'. Even shortish breaks such as maternity leave stump many male managers – how are they going to service clients while she's away, should they disrupt clients again when she returns? Hence, a series of breaks in her career can leave a woman in a less senior job with lesser prospects for advancement when she is ready to return to full pace, full-time work.

The issue of advancing women's careers was raised more frequently than any other in the 15 firms we surveyed. 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".

This issue has led to a number of firms establishing:

- women's networks in the firm which champion and support women's career issues, status needs and making proposals to top management;
- special development programmes and mentoring schemes to improve women's skills, confidence, and networks;
- flexible working policies to accommodate and promote different working arrangements.

1 Women's Networking Groups

Several larger organisations have established an in-house Women Networking Group to identify the issues affecting this population and to look at remedies which can be applied to improve career opportunities and worklife balance. As a consequence, initiatives have been implemented such as special workshops, enhanced flexible working opportunities, coaching, mentoring and special provisions for those on maternity leave. Parenting groups are also emerging amongst the major banks and professional service firms, aimed at male and female staff, to explore and support family issues.

Furthermore, the women's network groups are also affiliated to wider industry bodies. In the City, 'Women in Banking and Finance' (WIBF) plays an active and visible role, as well as the Institute of Chartered Accountants (in England and Wales) with their 'Narrowing the Gap Programme'.

Smaller City organisations do (or could) encourage female workers to join WIBF or to attend conferences and seminars organised by the ICAEW, CIPD, City HR and other professional bodies as part of their networking activity.

2 Tailored Workshops for Women

A range of specially tailored workshops have been implemented (or sourced) by many City firms to address issues typically encountered by women. These include skills development, confidence-building, assertiveness and managing teams as well as softer and more generic skills around achieving work/life balance. Many of these workshops have been successful. However, some City firms report that their employees prefer mixed workshops because the issues impact men as well and some men welcome training in these topics. It is also important to remember that its not all "women's fault" that they don't progress! Training solutions can make it appear that if only women were better skilled or more confident they'd do better in their City careers. But managers' (men and

women) attitudes need to change as well. So firms need to watch the hidden messages they inadvertently be giving in their training offering.

3 Coaching & Mentoring

The City, as well as national employers, has seen an increase in employee coaching, particularly as part of the overall talent management strategy. Many organisations have extended coaching facilities to help with assertiveness, confidence building and overall performance. Likewise, many organisations have assigned female employees with mentors. It should be stated that organisations have generally made coaching and mentoring available to all employees in its succession planning or talent pool irrespective of background.

A particular type of coaching has emerged over the past 5 years which 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 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.

These initiatives all offer support and help to women; they also help to raise awareness of the issues amongst senior managers. However, reports from some City firms indicate that it is critical to get the sponsorship and the timing of some of these initiatives just right. Business support for network groups is absolutely critical to make sure they don't get sidelined or feel vulnerable to criticism.

4 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. Until the mid-90s it was 'normal' for employees to work from 8am to 7pm as a minimum, irrespective of their "hours of work" in their contract of employment. This made life difficult for female workers with children and one parent families (male or female) and for those looking after elderly or sick dependents.

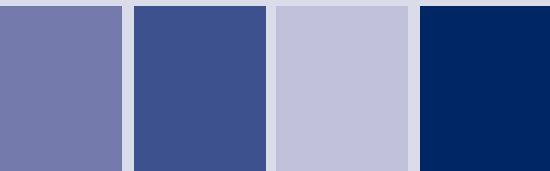
As firms began to embrace the benefits of diversity – in all its manifestations – attitudes towards 'normal' working hours have changed. Coupled with the Government's introduction of the 'parent's right to request' flexible working arrangements, most organisations have re-considered their policies to encourage family friendly policies and

flexible working. This introduced 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. The Government is looking to extend the child age from under 6 to under 16 in April 2009. We found that many City firms already extend this right to ask 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.

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 businesses. 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 often involve very long days? Or part-timers on 4-day-a-week pay who 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 had it for good when she'll probably be working till she's 65?



Working across different cultures

Arguably the City has been operating in a global context for decades indeed centuries. Financial firms and institutions have brought in staff from other parts of the world for many years to underpin the global growth of their businesses and to extend the experience of all staff. Many are owned by firms from other countries or regions and operate with group functions in another country. There is also a large expatriate population working for City firms – big and small.

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 managements levels more diverse in terms of race or nationality*”; “*create an effective culture for the 36 nationalities working at the bank*”.

What initiatives did we see in the City firms we surveyed?

1 Special workshops and training

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.

2 Networks

Some firms had experience of Networks to support their culturally mixed workforces. One successful model was an International Network where anyone could go to celebrate particular international events during the year, or 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. 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.

Working with different age groups

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 a difficult climate in the City, experience of other downturns and recessions really counts.

Some businesses, particularly those with high pressured workloads, encourage 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.

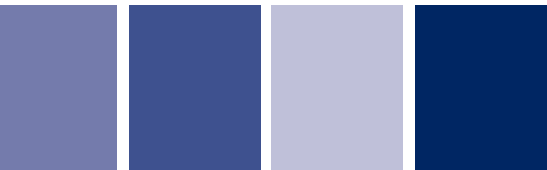
Equally one or two of the firms we surveyed mentioned the need to stay in tune with the needs of Generation Y employees (those born in the 1980s). Much has been written about whether these new entrants to the workforce put higher priority onto work-home balance than previous generations. Or actually, 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 to have their cake and eat it too?

What other diversity issues are concerning City firms?

All diversity issues are concerning City firms even if they don't have a lot in place to specifically address some issues. We did talk to some City firms who had other network groups e.g. with respect to disability or to sexual orientation. 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 consultation exercise of employees but also external clients and visitors. So 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 evacuations, etc. The action plan was therefore reasonably straightforward to introduce over time.

Some firms alerted us to potentially newer topics – what about 'fattism' or 'sizeism'? In a recent survey carried out by the CIPD, 90% of HR professionals would hire a slim person over a fat person, and 30% said that obesity was a valid medical reason for not employing someone. City employers must watch out that they can really justify their hiring decisions based on the actual job on offer.



3 How do you know whether your diversity programme is working?

As with any business initiative, it is important to set targets to be achieved, to monitor progress and to assess impact. Although firms may wish to improve retention of key employees, compete more successfully in the recruitment of key talent, and avoid undue litigation risk, is it possible to put any measurable changes down to a diversity initiative? However, there are some things that can definitely be done to measure progress and achievements.

Keep evaluating specific initiatives to find out how they are going

It is important to keep track of every new initiative to find out how it is being received by those involved. For example, one Women's Network surveyed all women at the firm to get feedback on its first year's activities – 20% of women replied and 27% of those said it made them feel better about working at that firm. This doesn't necessarily feed directly through into retention but it is certainly related to it. In another example, a new mentoring scheme for 14 people was carefully set up to separate the development of key talent with a strong emphasis on diversity. A mid year review showed that only 2 participants were not totally positive about the scheme's impact; as a result the arrangements were altered for these two people to their satisfaction.

Survey employees on diversity topics from time to time

When creating a new diversity strategy or approach it makes sense to survey employees to find out what they think diversity means, what they think the biggest gaps are and how well they think their firm is doing. In recent years, these surveys have thrown up the need to enhance flexible working, to tackle an unnecessary long hours culture, to improve tolerance of minorities including those from a different educational background, and to improve manager skills at managing diverse teams. These surveys help to shape plans and also enable repeat surveys a year or two later to assess progress.

Of course, many firms run regular employee opinion surveys to assess engagement and provide broad feedback to top management. Diversity questions in these surveys are equally useful to monitor progress. But remember to keep these surveys up to date. One firm had been asking about equal opportunities performance for several years and had been doing quite well. They then changed the same question to diversity as they had been introducing diversity initiatives. Performance dropped significantly – in fact employees expectations and standards had been raised. This helped to spur the firm to take even more action on diversity in order to improve scores for next time the survey was completed.

Measure trends in the workforce - use your HR metrics to full effect

It is very useful to set up routine ways to monitor percentages of women, minorities, disabled people at each level of your organisation. These can then be tracked regularly (perhaps once a year) and reported to top management but also to employees. Are things improving? Do you have a target that you would like to achieve over the next few years? If you set targets, model your turnover and hiring patterns so that you set realistic goals; there is no point in setting a target to increase the number of senior women by an amount that would be impossible because you won't have enough leavers in that time nor enough women available to promote.

Many organisations have similar approaches to measuring and setting targets for candidate pools for jobs. These can be helpful as recruitment processes can have the biggest impact in changing your workforce as can promotion processes. Assess these regularly and particularly 'in the moment'. It is better to monitor the diversity of long lists of candidates rather than after you have appointed someone because you could choose to actually do something about the lack of women or minority candidates.

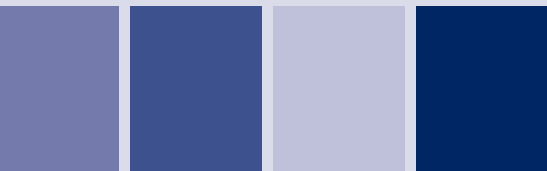
All firms we surveyed are committed to recruiting and promoting entirely on merit but were interested to seek out good minority candidates. But avoid improving your firm's statistics on diversity solely or primarily through new external hires; this can make junior minorities cynical that the only way to advance is to jump firms and could even risk discrimination claims from non-minority candidates and employees.

Hold managers accountable through their annual objectives

Some firms have moved to an approach whereby they set senior managers additional specific goals or targets to achieve in diversity and hold them accountable at year end for achieving these. These approaches work best when there is unwavering support at the top for achievements in diversity and where it is clearly seen as completely aligned with the culture to be achieved in the firm. Where these approaches have been adopted they have been successful in creating a genuine change in senior managers' behaviour for example they have become more active in sponsoring training and mentoring and in supporting employee network groups.

Benchmark your progress against others in your industry

Some firms are benchmarking regularly, for example, through the rigorous methods that employer organisations like Opportunity Now, Race for Opportunity, Stonewall and others (see the list at the end of the brochure). This way they can get a measure of how well their doing – e.g. a bronze, silver or gold level – and some concrete ways they could do better. If you do well, you might want to advertise your successes on your recruitment literature on your company internet. There are publications and companies listing the best 50 or 100 places to work which can include best place to work for women or minorities. These are the best 50 or 100 places of those which have entered for the award, of course! But if you do well enough to get one of these, it can reinforce an already strong performance and be attractive to many recruits.



4 A framework for a diversity programme

A framework to creating a diversity programme is described below. We hope this will be helpful to those who have not yet tried such an approach. For those that have a diversity programme, this framework can be useful as a benchmark.

1 Ensuring top-level commitment

The starting point is to ensure top down commitment within the firm, with the Chief Executive Officer (or equivalent) taking ownership for the success of the diversity agenda. Most firms achieved this through the CEO's establishment and chairing of a Diversity Committee of some kind, whose role was to take a macro approach to diversity issues. The committee would traditionally be involved in the setting of diversity strategy and the assessment of progress through the governance of local, regional and global programmes. In more 'diversity mature' organisations, divisional and individual targets would be set to help assess local and global achievement of pre-defined standards. The role of the CEO and senior management became even more important during the difficult financial markets of 2008 in keeping diversity high on the agenda. Sometimes a senior business manager is put in charge of the Diversity Committee instead of the CEO. This can work well as long as that senior manager is a member of the top executive committee which reviews the work of the Diversity Committee on a regular basis.

Other key players on the Diversity Committee tend to include

- Key Business Managers (usually the heads of major divisions);
- Regional Heads of Businesses and Country Managers;
- Head of Human Resources – locally, regionally and globally;
- Head of Diversity if the firm has one of these – locally, regionally and globally depending on the size of the firm. This person is usually a direct report to the Head of Human Resources.

2 The work of the Diversity Committee

Once the diversity agenda has been agreed and established at the top level, there needs to be a mechanism through which this is communicated to staff and an education process to ensure that diversity is understood and applied within the firm. The Committee usually establishes a plan and series of actions to support its overall

goals. These goals, plans and actions have worked best where they become part of the usual planning process in the firm.

3 Identifying the Key Stakeholders and getting their input

In putting together a diversity agenda that is 'fit for purpose' for the organisation, the following stakeholders are usually identified:

- Top management
- Employees, secondees, interns and contractors
- Shareholders
- Customers
- Suppliers and contractors
- The wider community

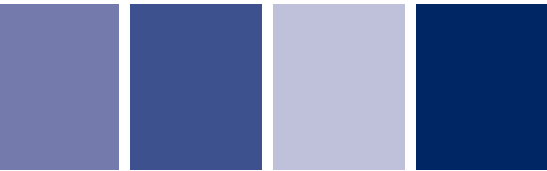
There were a variety of different ways in which this has been done which include:-

- Focus Groups to identify the issues affecting the organisation, the aims of any diversity agenda and the support required to successfully implement any plan.
- Employee Attitude Surveys to identify all issues within the organisation, to assess which of these are diversity related (eg women requesting more career development interventions, minority groups being able to comment on the fairness of any career advancement or training schemes etc).
- Diversity Questionnaires which survey employees' views on the whole range of diversity issues and can measure progress on these at regular intervals.
- Customer Satisfaction Surveys to assess the extent to which an organisation is meeting the needs of its customers – and how a diversity strategy might enhance client needs

4 Creating an Agenda for your Business

It is evident that there is a huge amount to consider in establishing and implementing a diversity agenda. Above all, firms reported a need to ensure sustainability. Diversity counts in the good times and bad, so keep the momentum going.

A comprehensive checklist appears on page 30 of this publication to help you build your own agenda and framework.



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

Although our survey did not highlight the legal risks as the main reason for setting a diversity agenda, it is clearly important to ensure legal risk is mitigated. 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

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, ACAS guidance and the guidance provided by employment case law. A failure to follow the statutory procedures can lead to a significant uplift in any compensation awarded for discrimination and this is reason enough for following the procedures. However, there are many other very good reasons why following the procedures 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. 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.

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 whether or not to allow an older employee to work beyond the age of 65 and when considering the position of an employee caring for a disabled employee at home.

7 Be careful with email and other written records

This is probably the most important tip. 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 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

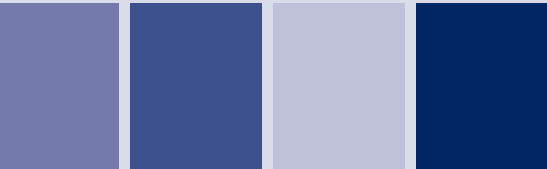
Where the employer wishes to negotiate a compromise agreement with the employee, it is important to judge the right moment to initiate or to respond to a discussion about a compromise. The general rule is that the employer should follow the correct 'on the record' procedure through to the point where 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, following best management practice at all times is actually the most effective way of reducing discrimination law risk.



Diversity Checklist

PROCESS	THINK ABOUT	TICK
<p>1 GETTING STARTED</p> <ul style="list-style-type: none"> • Get CEO/Senior Management Buy-in • Identify stakeholders • Identify benefits to the organisation and stakeholders • Develop a rationale for, and objectives of, having a diversity programme • Build a business case for diversity and inclusion • Appoint a diversity committee • Identify a diversity champion (ie project leader) • Develop a diversity strategy • Review diversity related policies • Consider cultural fit with the organisation • Set a budget 	<p>Consider all stakeholders, ie Top Management, Employees, Secondees, Interns, Contractors, Shareholders, Customers, Suppliers, Wider Community. Select your diversity champion carefully and get top management sanction of your choice.</p>	
<p>2 SET UP</p> <ul style="list-style-type: none"> • Identify stakeholder issues • Gather research from stakeholders • Research the activities of comparable and other organisations • Identify where the organisation is at present and identify the diversity milestones for the future • Secure sign-off on the strategy, mission and objectives of the diversity programme • Consider how to launch the diversity programme 	<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>	
<p>3 GOVERNANCE</p> <ul style="list-style-type: none"> • Determine reporting infrastructure ie to whom and frequency • Implement a diversity activity/progress reporting structure • Identify any rewards or recognition mechanisms for achievement of targets or outstanding contributions to diversity initiative • Agree metrics • Ensure linkage of diversity initiatives to business objectives • Get CEO to announce personal interest in diversity reporting and individual or team recognition 	<p>To add weight, to your diversity plan, consider your mechanisms for capturing data, setting targets and recognising success. See 8 below.</p>	
<p>4 POLICY AND PRACTICES</p> <ul style="list-style-type: none"> • Review all equal opportunities, diversity and inclusion policies and practices to meet diversity objectives • Advise all stakeholders of the existence of policies and future training and reporting requirements 	<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>5 COMMUNICATION</p> <ul style="list-style-type: none"> • Develop a toolkit of diversity information sources and support materials • Launch diversity programme • Provide information to help all stakeholders maintain diversity on their agenda • On-going diversity awareness campaign • Communicate successes 	<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
<p>6 TRAINING</p> <ul style="list-style-type: none"> • Deliver diversity awareness to all employees • Adapt existing training programmes to embed organisational values on diversity and to alleviate stereotyping • Develop programmes aimed at specific shareholders or to support the specific needs of target (or minority) groups • Consider the use of interventions such as coaching and mentoring and apply these where needed • Train those involved in management, coaching or mentoring • Consider cross-cultural training in organisations employing or servicing different nationalities 	<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"> • does on-line training work? • does it fit with regular management training? • is something specific needed in some departments? <p>Market-facing and front office divisions usually have little time so consult and be sensitive to needs.</p>	
<p>7 NETWORKS</p> <ul style="list-style-type: none"> • Consider setting up internal networks to support diversity “special interest” group • In smaller organisations, explore linkage with key external networking or support groups • Meet regularly with those involved in networking groups to understand emerging issues, to consider remedies and to channel feedback up to top management 	<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.</p>	
<p>8 REVIEW AND BENCHMARKING</p> <ul style="list-style-type: none"> • Evaluate the effectiveness of diversity initiatives • Solicit feedback on progress via employee attitude surveys, diversity surveys, diversity audits and liaison with “special interest” groups • Review manpower plans • Review Customer satisfaction surveys • Recognise key “wins” and publicise or reward as appropriate • Benchmark with competitors or against public benchmarking tools • Report findings to diversity committee on a regular basis 	<p>Also examine external sources to assess best practice and progress. Try; www.cipd.co.uk www.equalityhumanrights.com www.acas.org.uk www.diversityworksforlondon.com (includes diversity toolkits support and benchmarking programme). More specific sources can be found in chapter 7 of this publication.</p>	
<p>9 SUSTAINABILITY OR KEEPING IT GOING</p> <ul style="list-style-type: none"> • Develop a strategy for keeping diversity on the agenda during good times and bad • Review diversity committee, policies and initiatives to ensure that tangible progress is being made • 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 • Promote successes • Include diversity in the formal Annual Report so that external stakeholders (eg suppliers, third party relationships, shareholders) can appreciate the steps being taken • Consider having an internal Diversity Annual Report or awards so that employees get the message. Diversity really counts. 	<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 always important, so stay on track.</p>	

6 Specimen diversity policy and procedures

A sample policy has been provided by law specialists Hammonds. This will assist organisations with the set up of a diversity policy, or act as a benchmark tool for those who already have a policy in effect.

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 on the grounds of:

- (a) race, nationality or ethnic origin;
- (b) gender, gender reassignment, marital or family status;
- (c) disability;
- (d) trade union membership or activity;
- (e) sexual orientation;
- (f) religion or religious beliefs; or
- (g) age

1.2 Forms of discrimination: -

(a) Direct discrimination

This occurs when an individual is treated less favourably than another in relation to employment on discriminatory grounds. This includes harassment and victimisation (see 1.3 and 1.4).

(b) Indirect discrimination

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 one section of the workforce,

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 uninvited and unwelcome behaviour on any of the grounds at 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 managers 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 Victimisation

Victimisation 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
 - (i) 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 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.

- 4.6** [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].

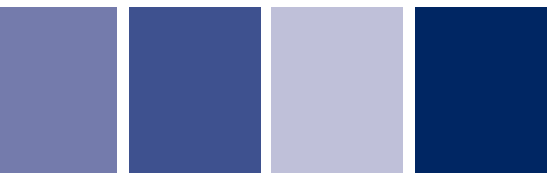
11 MISCELLANEOUS

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.

11.1 'He' is used to cover both genders.

A soft copy of this specimen policy is available from the City HR office.



7 Sources of help or additional reading

General sources of help

The Chartered Institute of Personnel and Development - www.cipd.co.uk

Equality and Human Rights Commission - www.equalityhumanrights.com

The ACAS website has a useful summary of the legal situation with regard to equality - www.acas.org.uk.

The London Development Agency sponsors Diversity Works for London which offers a diversity toolkit support materials and a mass of good practice guides for free - www.diversityworksforlondon.com

Main employer bodies

Opportunity Now (www.opportunitynow.org.uk)

Race for Opportunity (www.bitc.org.uk/take_action/in_the_workplace/diversity/race/index.html)

Employers' Forum on Age (www.efa.org.uk)

Employers' Forum on Disability (www.efd.org.uk)

Working Families (www.workingfamilies.org.uk)

Stonewall (www.stonewall.org.uk), www.bbc.co.uk/religion

Cross Cultural Awareness

The Wisdom of Crowds – James Surowiecki – Looks at the power of the team “Why so many are smarter than the few” [Abacus - 3 March 2005]

CQ – Developing Cultural Intelligence at work, by P.Christopher Earley, Soon Ang and Joo-Seng Tan [Stanford University Press 15 February 2006]

Doing Business Internationally, by Danielle Medina Walker, Thomas Walker & Joerg Schmitz [McGraw-Hill 1 September 2002]

Cultural Intelligence, by David C. Thomas and Kerr Inkson [Berret-Koehler 1 May 2004]

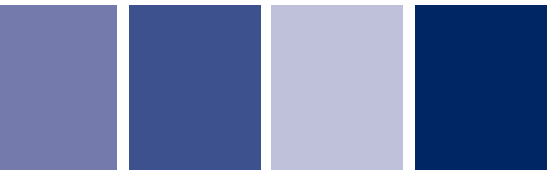
Advancement of Women

The Women and Equality Unit are part of the UK Government setting policy in this area - www.womenandequalityunit.gov.uk

Lehman Brothers Centre for Women in Business at London Business School - www.london.edu/womeninbusiness.html

Centre for Work-Life Policy runs an initiative - The Hidden Brain Drain Task Force; Women and Minorities as Unrealised Assets - www.worklifepolicy.org

Women in Banking and Finance - www.wibf.org.uk



8 Case Studies

Case Studies

Case study 1

What does diversity mean? - FSA

At the FSA management wished to create an environment which promotes and celebrates differences and contributes to the richness and variety of the workforce. It meant recognising everyone's contributions, ensuring that policies, practices and procedures are inclusive and that individual contributions are able to ensure the FSA delivers its business model.

Diversity & Inclusion at the FSA is therefore not 'just' a policy (although it is underpinned by the Equality of Opportunity and Dignity at Work Policies); rather, it is an overarching approach to the way the FSA treats its staff, regulated firms and suppliers. Diversity is a way of life at the FSA.

However, it wasn't always like this.....

'Diversity' has been discussed at various levels throughout the organisation for a good few years.

The main issues facing the FSA were:

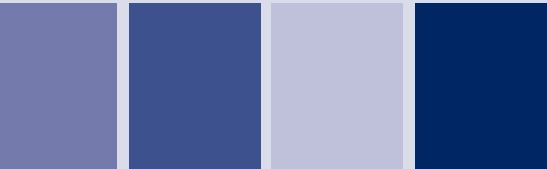
- lack of real ownership at the right places within the FSA (this was never going to succeed as a strategic initiative if pushed by HR); and consequently
- lack of cohesive strategy (they didn't identify what they wanted to achieve or even what they thought 'Diversity' was)

The FSA formed a Diversity Steering Group whose first task was to carry out some research internally and externally and then to establish what Diversity means at the FSA. They carried out an audit, run by an independent organisation. The level of interest from staff was staggeringly high – the organisation running the staff survey said they'd never had such high take up within the first two days of running!

This gave a clear understanding of where the 'hotspots' lay – mainly in the area of 'fairness' (meaning fair and consistent treatment of different groups of employees across the business; and a trust in the leadership of the FSA 'to act as it speaks') and 'equality of opportunity' (meaning that different groups – which may be male/female;

part/full time; ethnic minority/white; employee/management – have equal and inclusive access to training, benefits, promotions). This has resulted in a strategic vision of what Diversity at the FSA means where they are in the process of establishing baseline measures to evaluate success and progress within the FSA, rather than purely in relation to generic statistics.

There is still much work to do and there is never an 'end date'. Diversity is one strand which ensures that the FSA is utilising and developing the right talent in order to function as the City's Regulator.



Case Study 2

The Respect Works Programme - the Co-operative Group

Three years ago the Co-operative Group – one of the UK’s strongest brands – began an ongoing initiative to address the case for diversity. To promote the importance of respect at work, and counteract issues of bullying and harassment, the Co-operative Group developed a Respect Works programme for 140 senior managers and commissioned a short training film for its 65,000 employees. The content was tailored for the different Co-operative businesses, which include food stores, funeral branches, travel agents and pharmacies.

“Organisations cannot afford to ignore bullying and harassment in the workplace because they destroy teamwork, morale and commitment,” says Amanda Jones, the Co-operative’s Head of Diversity. “We’ve tried to remove this negative behaviour by creating a top-down initiative, as an extension to our diversity strategy, to raise awareness of the need to treat others with respect and show consideration for their feelings.”

Amanda Jones says the *Respect Works* initiative has been very successful. It is currently in its third stage and the executive at The Co-operative are currently engaged in a Championship programme designed to encourage leadership and ownership at all levels in the organisation.

“We want people to come to work, get a buzz out of working with their colleagues and feel they are part of providing a great service to our customers,” she said. “Bullying and harassment are never appropriate. Through the *Respect Works* initiative, we have highlighted how people should be treated within our organisation. This is important not only from an ethical position but also from a business standpoint. By creating a great environment for people to work in, you create a great environment for your customers.”

Case study 3

Flexible Working at the Bank of England

The Bank of England's Diversity Strategy is focused on the twin objectives of recruitment and retention. The Bank's Executive Team recognised that greater flexibility, both in jobs and careers, paves the way for greater diversity in the Bank's senior management.

Flexible working was first piloted in the Bank between June 2006 and the end of 2007. The pilots, which were in a range of diverse working units, tested five principles and a range of flexible working options. Participation of teams was voluntary and the results of the pilots were evaluated to identify impact on the delivery of business objectives and impact on teams and individuals. Overall, the pilot experience was positive and so flexible working was introduced throughout the Bank from January 2008.

The five principles for Flexible Working at the Bank of England are:

Principle 1: Balancing the Bank's needs and the individual's needs. This means that the Bank's needs have to be met at all times and delivery of objectives cannot be compromised. Within these constraints, staff and managers have permission to come up with creative solutions to enable flexibility within the team.

Principle 2: Flexible Working requires a team commitment. This means that individual arrangements are negotiated on a multi lateral basis, taking into account work objectives, customer needs and team needs. The team approach discourages one-to-one or 'first-come-first-served' arrangements.

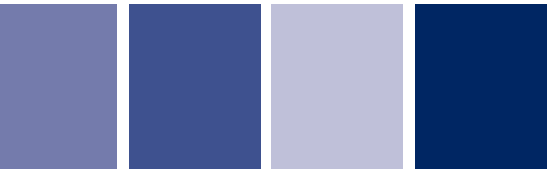
Principle 3: Jobs can be done in more than one way. This encourages staff and managers to explore ways to carry out jobs in a new and different way and to be creative in how they design jobs.

Principle 4: What counts is what you and your team deliver. This recognises that there are real challenges in delivering objectives with limited resources. By focusing less on the number of hours spent in the office, and more on value added, outputs need not suffer.

Principle 5: Flexible working for all. All staff are able to ask for greater flexibility in either their day to day role or over their entire career, regardless of their personal circumstances. All requests are given equal consideration.

Day to day flexible working arrangements include: working from home; variable hours; part-time working; annual days and term-time working. Leave options include: discretionary leave for exceptional work pressures or on compassionate grounds; community services leave and part-time study leave. Longer breaks include: unremunerated leave between 4 weeks and 5 years.

A range of support was available to introduce flexible working: workshops for managers; facilitated team meetings for managers and staff; interactive seminars; Q and A sessions; comprehensive guidelines on the intranet. An evaluation through feedback from the staff and assessment of performance measures will help set any further priorities for changes to flexible working in 2009.



Case study 4

Flexible working – Bank of Nova Scotia

Scotiabank is currently building change around Employer Branding by creating a London brand which reflects the subtle cultural differences within the European location compared to Head Office. Out of this project different strands have emerged.

Looking at the workforce, approximately two thirds male, one third female, less than a quarter of senior positions are currently staffed by females. Research suggests, to support the advancement of women, the organization critical mass should be roughly equivalent to one third of the total population.

Flexible working is a particularly useful device to continue the engagement and advancement of women in their careers. Head Office staff offered the following advice, work backwards and look at what kind of environment you want to create. A culture where an individual's performance matters but when and where the work is done does not, of course subject to local business operational requirements.

Using this example, the most senior female along with the Head of HR met local senior leaders from a range of business units in London. They explained that flexible working had a broader set of arrangements than is normally supposed. By testing these different arrangements with each leader it was possible to determine overall reception to flexible working as well as the possibility of embedding a particular arrangement in that business area. There were 4 core findings:

1 A Diverse Business Requires Diverse Flexible Working Arrangements - It quickly became apparent that no single flexible working arrangement could be applied to all business areas. Each business had different requirements from its employees in terms of working arrangements. For example:

Practice	Capital Markets Sales	Trading businesses
Working from home	Yes – as long as there is phone and email accessibility	No – people need to rapidly exchange information in a team environment in the office
Work Core Hours	No – the client needs good access to staff over a prolonged period of the day	Yes – As long as the market hours are covered eg: 8am to 4pm would work, but 10am to 6pm would not

2 Some Flexible Working Arrangements Are Non-Starters In A Front-Office Environment - There were some specific flexible working practices that no one felt could work in the Front Office environment. Examples would include:

Practice	Difficulty
Job Share	It would be too difficult to share a specific trade activity or a client set
Compressed hours	There are already long hours in some areas so how could you do more hours to shorten the working week?
Annualised days, term time working	How would you cover the days that were taken off when you have relatively small trade teams in London? How would you cover the days with such small teams when you have clients that require 365 days of coverage?

3 Back-Office & Support Roles Were More Amenable To Flexible Working - There was a general perspective that flexible working would work better in back-office and support functions at Scotiabank in London. Interestingly, this perspective secured support from front-office leaders as well as those in the back-office and support functions. Indeed, there was a feeling that most of the familiar flexible working practices could work although those arrangements that left roles exposed for stretches of time such as annualised hours, term-time working etc could be more difficult to implement given the need to cover roles with relatively small team sizes.

4 Don't Institutionalise Flexible Working – Most (but not all) senior leaders and particularly those in the Front-Office were clearly uncomfortable in formalising a flexible working arrangement for their staff. Their preference was to create the right environment for some of the flexible arrangements (such as working from home, working core hours) to take place on an ad hoc basis, but not for these arrangements formalised in a contract.

Recommendations for Change

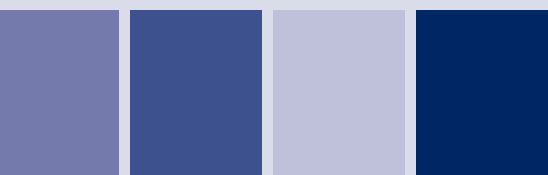
Given the very mixed perspectives on flexible working at Scotiabank in London, it has been difficult to establish a set of recommendations that would get wholesale support. However, in the spirit that they ought to build some organisation capability in managing flexible working, and are recommending a few evolutionary changes to the status quo:

Flexible working arrangements will be actively supported and marketed in support organisation areas of the Bank in London. There will be no active marketing of flexible working arrangements in the front-office. Front-office line managers will be updated on current legislative requirements for flexible working in order that they are aware of their obligations to employees. The greater part of the message though will be about mind set:

- (a)** Measure People By Output Not Input - Just because people are not at their desk, it doesn't mean they are not working or achieving the results that a line manager needs

- (b)** Retention Tool – A change in work arrangements might just be the tool to retain an employee – not the extra pay rise

- (c)** Attitude – Keep an open mind on the need to be flexible. During this review, anecdotes were picked up, which suggested that an element of pre-judgement goes on. For example:
 - (i) There was the time when putting the car into the garage was dealt with more sympathetically than taking a child to a doctor
 - (ii) There was the time when taking a pet to the vet for urgent surgery was not regarded as a legitimate reason for re-organising a work day
 - (iii) There were plenty of examples when people felt guilty for leaving work at 5pm even when they would continue their workday at home



Case study 5

Women's Initiative for Networking and Success (WINS) – The McGraw Hill Companies

WINS is a corporate-wide initiative that fosters the professional and personal growth of women at The McGraw-Hill Companies through global events and regional networks. Women at all levels, at any stage of their careers, are welcome and encouraged to get involved.

Vision

WINS is committed to creating a culture that inspires women to develop their leadership abilities, seize growth opportunities, and increase their knowledge of The McGraw-Hill Companies for organizational and personal success, driven by our global commitment to serving and celebrating the community of women.

Mission

WINS supports The McGraw-Hill Companies' women globally by:

- Providing a network to encourage women to share experiences across The McGraw-Hill Companies
- Partnering to create a mentoring culture
- Providing programs/events to enhance women's career/leadership skills and knowledge
- Developing new business ideas
- Connecting with our communities
- Providing the strongest pipeline of diverse talent for top jobs
- Supporting The McGraw-Hill Companies in attracting, developing and retaining diverse, high-quality talent so that it becomes and remains an employer of choice.

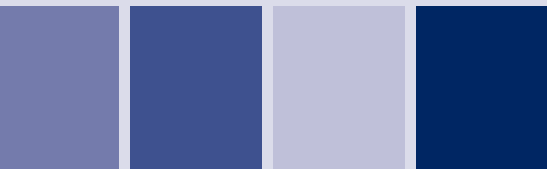
Case study 6

Targets in a Balanced Scorecard - Bank of Nova Scotia

At the Bank of Nova Scotia, targets were put in place over a three year period for all senior business leaders using the balanced scorecard mechanism. In the case of the Advancement of Women initiative, the Bank set a global initiative to get the whole organisation on the same page within three to five years. The Bank has seen a major change over the last two years, the gap to critical mass was close to 250, this gap has recently narrowed down to less than 20.

The Bank has promoted and enhanced the visibility of the senior female workforce within the business environment by profiling these leaders within corporate news articles to aid the achievement of this target.

In conclusion, the global pool initiative will help the local pool over time. The global objective is focused on getting all locations to the same 'end' organisational goal. The data to date supports the use of targets within the workforce as evidence would suggest what gets measured gets done!



Case study 7

Cultural awareness - British Arab Commercial Bank

BACB is a British Bank with Arab roots and a distinct set of markets and clients, formed with the primary purpose of facilitating business with the Arab world. Registered in London, the Bank has no branches, but has representative offices in Algeria and Libya.

A consortium bank, BACB's Arab shareholders comprise Central Banks and major commercial banks from the Arab world and its clients are for the most part located in Arab markets, transacting business in Algeria, Egypt, Lebanon, Libya, Morocco, Sudan, Syria, Tunisia, Saudi Arabia, the UAE and other Gulf countries.

Through our dealings with our clients over the past 35 years, they believe that their success has, in part, been due to us knowing their markets and its people. However, they began to realise that fewer (and generally more senior) people possessed this valuable knowledge and they were relying on new staff to somehow just know it all – an impossibility! A little example of this is that, in some of their markets, the normal working week may be Sunday to Thursday. Different working hours are applied during special seasons in the year (for example, during Ramadan). Should they just expect everyone to know when and what Ramadan is, or how important the EID festival is to many of their customers? What is considered to be polite conversation and what might cause offence? How can you treat each other and each other's cultures with respect when you don't know these answers?

At the same time as the customer base was expanding, the workforce in London was becoming more diverse (in our small bank of 140 staff they employ staff from 16 different nationalities who speak 21 different languages). How best to pass on our 'expertise' presented a challenge.

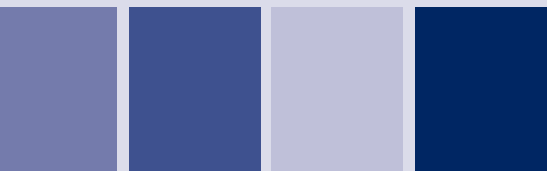
As with most things, the answer seemed to lie with communication. Talking to one another and asking and answering questions but what questions?

BACB started the communication process by producing some written materials, fact sheets on each of our major markets. These detailed the geography of the country, the population, an explanation of what languages are spoken, and a brief political and economic update, as well as some information on the banking and finance sectors.

.... But they needed something more ... something to bring these facts 'to life'.

They hit upon the idea of holding *Cultural Awareness Days*, which are now run regularly. These are to give staff an insight and awareness of the customer base and knowledge of the countries served, in terms of history, customs, cultures and the business undertaken.

These days take the form of informal presentations made jointly by country managers and, where possible, a national of the featured country. It's a little bit like looking at large-sized holiday snaps, and some of the scenery is breathtaking! It brings the history and culture of the places to life. Attendance is entirely voluntary (although in practice nearly every member of staff attends) and presentations are made throughout the day, with a break for a buffet lunch, displaying traditional cuisine of the country. This enables networking between departments and allows an informal and relaxed setting in which people are not too intimidated to ask questions. This was particularly useful for those members of staff who may never have an opportunity to visit these countries but from time to time have contact with them.





Other publications in the City HR best practice series include:

2008

Bullying & Harassment

2006

Guidance on the Employment Equality (Age) Regulations 2006

2005

Guidance on Information & Consultation

(with reference to the Information and Consultation of Employees Regulations 2004)



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