

# KNOW HOW

## IN-HOUSE LAWYERS AND DIVERSITY

Building for the future

**Shauna Clark of Norton Rose Fulbright** explains how in-house lawyers can build a diverse and inclusive team.

Diversity, equity and inclusion (DEI) is a corporate imperative. In addition to being the right thing to do, there is a clear business case for fostering a diverse and inclusive workforce. Workplaces that value all dimensions of diversity will:

- Enhance innovation and productivity.
- Improve retention.
- Tap into new business development opportunities.
- Maximise return on talent investment.
- Minimise conflicts between departments.
- Improve business performance.

That said, commitment and implementation are key to a successful DEI initiative. A company that is relatively diverse will not necessarily see a correlation with improved financial performance and retention; rather, law firms and businesses that reap the most benefits are those that also recognise the importance of inclusion initiatives. In other words, a diverse workforce does not automatically create an inclusive workplace.

### Expectations for external counsel

Clients that are committed to having diverse and inclusive in-house legal departments will also expect their external law firms to employ that same commitment to DEI (see *Know how "Law firms and diversity: putting inclusion into practice"*, [www.practicallaw.com/w-028-0714](http://www.practicallaw.com/w-028-0714)). This provides external counsel with the opportunity to serve as trusted advisers in this sphere, sharing successes and best practice, and allows both

### Diversity at Norton Rose Fulbright

Norton Rose Fulbright's diversity networks in the US include the Minority Lawyers Network, Pride at Norton Rose Fulbright and the Women in Norton Rose Fulbright Network. Each network annually develops a strategic plan and receives a budget to advance recruiting efforts, professional development, client development and social interaction. Each network is nationally led by chairs, who are partners, and vice chairs, who are non-partners. Non-partner lawyers are further integrated as local chapter leaders leading the network efforts for their respective offices.

The firm's Racial Equity Council (REC) was also launched to identify issues within the firm and develop potential solutions, identifying improvements which the firm can make in recruiting, retaining and promoting black lawyers and business services personnel and to hold firm leadership accountable for executing change within the firm. The REC is comprised of the firm's black partners, non-partner lawyers and business services personnel who engage during weekly meetings.

As part of its commitment to DEI and support of racial equality, Norton Rose Fulbright and its REC recently launched a sponsorship programme. The programme pairs black non-partner lawyers with an established partner and an REC partner advocate, maximising the opportunities for black non-partner lawyers to succeed at the firm through enhanced career development, and increased visibility and support.

client and counsel to work towards the same goals for the betterment of the community and legal profession generally.

In March 2019, general counsel from a broad spectrum of major European companies signed a statement of support for diversity and inclusion in the legal industry. General counsel from more than 100 major corporations have signed the statement, committing to promote DEI within their organisations and to encourage partnering with law firms to adopt best practices. The General Counsel for Diversity & Inclusion's final report for 2019 highlights the importance of furthering DEI through specific actions and initiatives, and cautions against a dogged attention to collecting detailed law firm diversity statistics ([www.gcdandi.com/app/uploads/2020/06/gc-for-di-report-from-acritas-pilot-research-december-2019.pdf](http://www.gcdandi.com/app/uploads/2020/06/gc-for-di-report-from-acritas-pilot-research-december-2019.pdf)). Instead, it found that law firms and legal departments that reported

the best representation across all types of diversity, including race and gender, as well as strong support from employees, were those that focused on, among other factors: leader buy-in, unconscious bias training, and retention and promotion initiatives.

### Leading change

DEI initiatives require leadership support, follow-through and thoughtful implementation. When DEI programmes falter at a company, it is often due to a lack of support from top-level leadership. Of course, there is no magic pill for creating advocates of DEI. However, DEI success is often aligned with organisational success, so it should be possible to persuade leaders at all levels that the two are not mutually exclusive. There is a direct correlation between a workplace which embraces diversity initiatives, and enhanced innovation, productivity, retention and overall improved business performance.

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Another effective means to engage leaders with DEI is to host a town hall in which leaders to listen to and address concerns from employees. When put in the position to advocate for DEI and to discuss racial equality and social justice in an open and honest way, people tend to align their behaviour with their actions. This is an important step towards bringing change.

### Creating and fostering inclusivity

An important factor in furthering a company's DEI goals is creating awareness that differences among employees exist and then celebrating and encouraging those differences. When employees feel accepted and valued, they are more engaged and more likely to stay with the company. To encourage this, Norton Rose Fulbright has launched diversity networks for its people around the world (see box "Diversity at Norton Rose Fulbright").

Listening to and encouraging differences in perspectives and experience is the key to reaping the benefits of a diverse team. A homogenous group of employees working together may have less conflict than a diverse group, but they also have less diversity of experience to draw on when problem solving. A diverse team brings with it a difference of background and skills to better identify solutions and encourage innovation. For example, in 2020 the American Bar Association reported that groups of diverse lawyers are often more innovative, creative and collaborative than teams of lawyers who share similar backgrounds ([www.americanbar.org/groups/tort\\_trial\\_insurance\\_practice/publications/committee-newsletters/increasing\\_law\\_firm\\_diversity/](http://www.americanbar.org/groups/tort_trial_insurance_practice/publications/committee-newsletters/increasing_law_firm_diversity/)). Team diversity also encourages lawyers to consider factors and issues that they might otherwise overlook, undervalue or dismiss.

However, having more voices to problem solve together may also result in conflict. Managers

who are skillful at resolving conflict, listening and adapting to different communication styles will be best suited to navigate and drive team success.

### Unconscious bias training

Unconscious bias training for leaders and employees is also imperative to ensure that DEI programs and diverse teams have the best chance of success. An effective unconscious bias training programme will help employees to recognise that unconscious biases influence most of their decisions and that bias affects their ability to be inclusive. It should also provide tools so that employees can then identify micro-behaviours and unconscious behaviours, to make allowances for bias, and ultimately help to ensure that employees are making fair and equitable decisions in order to create a more inclusive and productive workplace. Asking external counsel to share unconscious bias training materials or even to host the training sessions will benefit both counsel and client. For this reason, Norton Rose Fulbright partners with many of its clients to provide unconscious bias training.

### Sponsorship programmes

Greatness in performing and delivering results is the great equaliser. What in-house legal departments can provide for their people and external counsel is the opportunity to be great. For example, in order to support real change, they could institute programmes that provide their diverse external counsel with opportunities to run a deal or try a case. In conjunction with this, they can also inquire how the law firm has allocated origination credit to diverse partners who own a client relationship. This will play a significant role in compensation and help with advancement within the firm.

Formal sponsor programmes for diverse talent within a legal department are also an effective means of promoting DEI. Leaders are more likely to mentor or sponsor someone

who they see as similar to themselves. This supports the majority group if leaders are mostly of that same group. To break this cycle, many companies are instituting equality-based sponsorship programmes to drive tangible outcomes for diverse employees. For example, a 2016 study by Cornell University found that with mentorship programmes in place, companies see a 9% to 24% increase in minority representation at manager levels and a 15% to 38% increase in promotion rates for minority employees with a mentor (<http://digitalcommons.ilr.cornell.edu/student/116>). In other words, having a committed sponsor is incredibly important to a junior lawyer's development.

### Data-driven results

In order to measure a company's progress on diversity, gathering data and tracking metrics are a necessary component. Data provide an objective lens through which employers can view and address DEI issues. By relying on the data, companies can make transparent and reasoned decisions to identify and address challenge areas and develop more equitable teams. For example, internal data can show how turnover rates compare across demographic categories, including race and gender. If disparities exist, this is an opportunity to look for targeted ways to improve retention rates.

That said, the company should refrain from attempting to explain the reasons for trends in the data. There can be great dispute about the reasons for any trend, and the reasons are often a significant disputed point in litigation. In addition, statistics can be misleading in the short term. The goal should be to hire and retain the best legal talent, even if diversity statistics are affected. Good hiring and retention practices, along with robust DEI programmes, will pay off over time.

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*Shauna Clark is the global chair of Norton Rose Fulbright.*