



# CULTURAL DIVERSITY GUIDANCE

# THE LAW SOCIETY OF NSW – CULTURAL DIVERSITY GUIDANCE

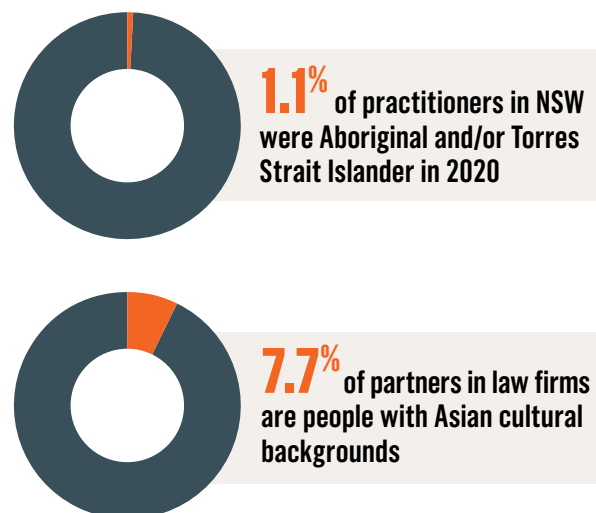
*The Law Society of NSW recognises that creating an environment where every person, regardless of their background, has opportunities and support to reach their professional potential can result in better outcomes for the community at large, and better business outcomes for the profession.*

Diversity and inclusion are practices that make sound economic sense for law firms and other organisations, and the Law Society’s [Diversity and Inclusion in the Legal Profession: The Business Case](#) identifies specific examples of where having a diverse and inclusive culture can improve the performance of a law firm or organisation.

Continued effort to promote cultural diversity is necessary, especially with respect to Indigenous Australians, in the legal profession. According to the 2020 National Profile of Solicitors<sup>1</sup> only 632 solicitors nationally identified as Aboriginal and/or Torres Strait Islander, representing 0.8 per cent of the total profession. By contrast, in the 2016 census, 3.3 per cent of the Australian population were Aboriginal and/or Torres Strait Islander.<sup>2</sup>

Diversity is also lacking amongst legal professionals in senior positions. People with Asian cultural backgrounds account for around 10 per cent of the Australian population, but only 7.7 per cent of partners in law firms.<sup>3</sup>

The Law Society’s Diversity and Inclusion Committee encourages workplaces to actively consider taking the following steps towards improving cultural diversity in the legal profession.



1 Law Society of NSW, 2020 National Profile of Solicitors (Final Report, 1 July 2021) 11.  
2 Australian Bureau of Statistics, ‘Estimates and Projections, Aboriginal and Torres Strait Islander Australians’ (Release, 11 July 2019) <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-and-projections-aboriginal-and-torres-strait-islander-australians/latest-release#data-download>.  
3 Michael Pelly, ‘Asian Lawyers hit ‘bamboo ceiling’’, *Australian Financial Review* (online, 26 April 2019) <https://www.afr.com/work-and-careers/workplace/asian-lawyers-hit-bamboo-ceiling-20190425-p51h8w>, cited in Asian Australian Lawyers Association, ‘Being the Change: Towards Diversity Intelligence in the Australian Legal Profession’ (Report, 2019) 10 <http://www.aala.org.au/resources/Documents/William%20Ah%20Ket/TIENYI%20LONG%20-%20BEING%20THE%20CHANGE%20TOWARDS%20DIVERSITY%20INTELLIGENCE%20IN%20THE%20AUSTRALIAN%20LEGAL%20PROFESSION.pdf>.

## 1. Commit to cultural diversity

Consider developing a statement which is communicated through the organisation's mission and important documents, such as its strategies, policies and employment procedures, including job descriptions.

For example: The Law Society of NSW is committed to creating an environment where every person, regardless of their cultural background, has opportunities and support to reach their professional potential.

## 2. Measure workplace cultural diversity

Gain a minimum understanding of your workplace by ascertaining employees' cultural background/s, language/s spoken at home, religion and country of birth.

### Possible strategies:

- Consider conducting a survey of the workplace, allowing people to self-identify their cultural background, always providing an option of 'prefer not to say'.
- Begin with a question about whether people identify as a First Nations person.
- Ask people how they self-identify and refer to their cultural background in the terminology they employ.
- A report by the Diversity Council of Australia, *Counting Culture: Towards A Standardised Approach to Measuring and Reporting on Workforce Cultural Diversity in Australia (2021)*<sup>4</sup> encourages Australian employers to assess cultural diversity in the workplace through three core measures, which represent the minimum requirements to obtain a basic understanding of the work force, and two additional measures for more detailed understanding, to be implemented if time and resources allow:



1. Cultural background.
2. Language.
3. Country of birth
4. Religion.
5. Global experience.

Employers may adopt all, or some, of these measures according to their individual capacity. The report emphasises the importance of contemporary Australian workplaces using appropriate and effective methods of measurement in order to capitalise on a culturally diverse workforce.<sup>5</sup>

<sup>4</sup> Diversity Council Australia, *Counting Culture: Towards a Standardised Approach to Measuring and Reporting on Workforce Cultural Diversity in Australia* (Report, 18 May 2021) 9.

<sup>5</sup> Ibid 10.

### 3. Recruit widely and reduce barriers to entry

Workplaces that have diverse and inclusive work cultures, policies and practices attract more people and are able to draw from a larger recruitment pool.<sup>6</sup> Diverse workforces that include people with global experience and multicultural backgrounds bring a range of perspectives, are more creative and lead to enhanced organisational performance and profitability.<sup>7</sup>

#### Possible strategies:

- Draft job advertisements, position descriptions and selection criteria in plain and inclusive language to attract multi-lingual applicants.<sup>8</sup>
- Remove identifying information from applications before assessment to address unconscious bias at the early stages.<sup>9</sup>
- Consider setting quotas. While quotas have been criticised for their potential to entrench unconscious bias and undermine merit,<sup>10</sup> evidence indicates that they have successfully increased gender diversity on company boards internationally<sup>11</sup> and in the legal profession in Australia.<sup>12</sup> Best practice guidelines have been published to support the implementation of quotas.<sup>13</sup>
- Value cultural experience, capability and language skills when hiring and promoting.
- Ensure the selection panel is comprised of people with diverse backgrounds.

- Refer to Jeremy Tipper's article 'How to increase diversity through your recruitment practices' for other aspects of recruitment best practice in promoting a culturally diverse workplace – these include:

1. diversifying media strategies in recruitment, from traditional job newsletters or outlets to various social media platforms used by different cultural communities; and
2. highlighting examples of diversity in the current workforce, especially in positions of power.<sup>14</sup>

### 4. Brief widely and look for opportunities to support cultural diversity in the wider community.

In addition to attracting and recruiting diverse employees, consider committing to equitable briefing. Approaching culturally diverse barristers and external organisations that also value cultural diversity are ways to improve the promotion of cultural diversity in the wider community.

For workplace events that require catering or a guest speaker, consider approaching an organisation that has culturally and linguistically diverse employees.

*Diverse workforces that include people with global experience and multicultural backgrounds bring a range of perspectives, are more creative and lead to enhanced organisational performance and profitability.*

6 Jeremy Tipper, 'How to increase diversity through your recruitment practices' (2004) 36(4) *Industrial and Commercial Training* 158, 159-160.

7 Australian Human Rights Commission, *Leading For Change: A blueprint for cultural diversity and inclusive leadership* (Report, July 2016) 9-10, citing Scott E. Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton University Press, 2007); Vivian Hunt, Dennis Layton and Sara Prince, *Why Diversity Matters* (McKinsey Reports, 2 February 2015); Vivian Hunt et al, *Delivering through diversity* (McKinsey Reports, 18 January 2018); Ceren Ozgen et al, 'Does Cultural Diversity of Migrant Employees Affect Innovation?' (2014) 48(1) *International Migration Review* 377, 378, 408-9; Emile Chidiac, 'A study of the strategic management of ethnic and cultural diversity in Australian settings: a multiple case study' (DBA Thesis, Southern Cross University, 2015) 104-111; Bowen Zheng, 'The Impact of Cultural Diversity of the Corporate Board on the Firm's Performance: Evidence from Australia' (MBA Thesis, Auckland University of Technology, 2020) 41-42.

8 Diversity Council of Australia, *Words at Work: Building Inclusion Through the Power of Language* (Guide, 2016).

9 See Marianne Bertrand and Sendhil Mullainathan, 'Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination' (Working Paper No 9873, National Bureau of Economic Research, July 2003) on unconscious bias regarding candidate names.

10 K Abraham Thomas, 'Affirmative Action in Piercing the Bamboo Ceiling within the Australian Legal Profession — Utopian Ideal or Dystopian Nightmare?' (2018) 6(1) *Griffith Journal of Law and Human Integrity* 65, 83.

11 Joyce He and Sarah Kaplan, 'Quotas: Pros and Cons', *The Institute for Gender and the Economy* (Research Paper, 26 October 2017) 3.

12 Kieran Pender, 'An Act of Parity: Are Quotas and Salary Transparency the Solution to Law's Gender Equality Woes?' (2021) 77 *Law Society Journal* 24, 25.

13 Joyce He and Sarah Kaplan, 'Quotas: Pros and Cons', *The Institute for Gender and the Economy* (Research Paper, 26 October 2017) 4.

14 Jeremy Tipper, 'How to increase diversity through your recruitment practices' (2004) 36(4) *Industrial and Commercial Training* 160.

## 5. Develop an inclusive culture

People who feel valued and respected by their organisation are more likely to remain in their role for a longer period of time. Firms and solicitors with diverse and inclusive workplaces and practices can expect to benefit from an enhanced reputation in the broader community and improved access to a diverse client base.

### Possible strategies to improve workplace culture include the following:

- Recognise and highlight culturally significant events and dates throughout the year. See the Australian Governments [Calendar of Cultural and Religious Dates](#).
- Implement cultural sensitivity at events and workplace social situations. For example, understand the importance of catering for religious dietary requirements and label food appropriately.<sup>15</sup>
- Celebrate culturally significant events in the workplace. This achieves the dual outcomes of recognising cultural diversity and raising cultural awareness and knowledge throughout the organisation.
- Create significant opportunities to progress the careers of culturally diverse people within the organisation including access to independent mentoring and professional development.
- Provide anti-racism and unconscious bias training.
- Establish a firm culture that rejects all instances of racism, stereotyping and ignorance by ensuring the organisation has clear and accessible policies against harassment and discrimination, and a complaints process that is prompt, confidential and impartial.<sup>16</sup>
- Consider the adoption of a meditation or reflection room which can also be used as a prayer room.<sup>17</sup>

## 6. Evaluate measures

Evaluation is vital to ensuring measures are achieving the aim of creating an inclusive, comfortable environment for people from culturally diverse backgrounds.

### Possible strategies:

- At exit interviews, collect information about any experiences of discrimination or insensitivity in the workplace. Encourage employees to record their experiences to avoid confrontational or shame-inducing experiences.
- Hold executives and managers accountable for progress on cultural diversity. For example, consider quarterly or bi-annual reporting obligations by executives and managers on a list of organisational measures adopted for establishing a culturally diverse workplace.
- Assess measures against the Australian Human Rights Commission's Workplace Cultural Diversity Tool, which advocates for: leadership commitment to diversity through clear policies, strategies and accountability, the elimination of bias in recruitment procedures, the provision of opportunities for professional development, the consideration of significant cultural and religious periods when planning business events, the implementation of a culturally sensitive and inclusive exit process, and the analysis of progress.<sup>18</sup>
- Assess survey results on a regular basis and set new goals accordingly.

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<sup>15</sup> Lisa Annese, 'Practical ways to promote religious diversity in the workplace', *Diversity Council of Australia* (Web Page, 1 July 2016) <https://www.dca.org.au/opinion-pieces/practical-ways-promote-religious-diversity-workplace>.

<sup>16</sup> See Law Society of New South Wales, *Workplace Guide and Model Discrimination and Harassment Policies* (Guide, May 2021) 22 for more information on policies and complaints processes.

<sup>17</sup> Lisa Annese, 'Practical ways to promote religious diversity in the workplace', *Diversity Council of Australia* (Web Page, 1 July 2016) <https://www.dca.org.au/opinion-pieces/practical-ways-promote-religious-diversity-workplace>.

<sup>18</sup> Australian Human Rights Commission, 'Workplace Cultural Diversity Tool' (Web Page, 24 June 2021) <https://culturaldiversity.humanrights.gov.au/assessment-tool.html#/1.1>.

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