

Women in the Legal Profession in Scotland

Executive Summary

**A study by the Law Society of Scotland and
the Equal Opportunities Commission Scotland**

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The Law
Society
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Introduction

The Law Society of Scotland and the Equal Opportunities Commission Scotland jointly commissioned this study into the position of women in the legal profession in Scotland, because of the perception that women appeared to be obtaining proportionately fewer senior positions in practice or the public sector. There was very little recent empirical research into the accuracy of such perceptions.

At the initial stages of the project a survey was undertaken of research which had been carried out in Scotland as well as in other jurisdictions, including Australia, Canada and the USA. This identified a range of universal key themes. Alongside this survey, a study was undertaken of the membership database of the Law Society of Scotland.

The key themes related to progression within the profession, the possibility of a gender pay gap, work-life balance issues and whether there existed a masculine ethos within the profession.

It was felt by the research team that the most effective research strategy would comprise a questionnaire covering the entire Law Society of Scotland membership. A project of this scale is unprecedented in Scotland insofar as the legal profession is concerned.

This questionnaire was drafted on the basis of the key themes which had been identified from previous research carried out within Scotland and other jurisdictions. Given the size of the population, this data was to be analysed quantitatively. In addition respondents were to be given the opportunity to add comments which would provide additional, qualitative data.

An initial draft of the questionnaire was piloted within a cross sample of the solicitors' profession in Scotland. As a consequence, minor alterations were made to the instrument of research.

Results

2,300 questionnaires were returned during February/March 2005, a high response to a postal survey, generating an array of valuable data.

■ Profile

More women than men responded to the survey, 40.4% men and 59.6% women. This reverses the proportions within the entire population where the male:female ratio is approximately 60:40.

73.9% were employed in private practice while 26.1% were employed in other sectors. This generally reflects the proportions within the entire population where the ratio is approximately 73.0%:27.0%.

Among the female group almost half had been a solicitor for less than 10 years, whereas among the men half had been admitted for more than 21 years. This is also reflected in the profession as a whole, given the increased proportion of solicitors who are women.

Most respondents of both genders attended state school, although more men than women had a fee-paying education.

■ Work-life Balance

Over half (50.5%) of the respondents had dependants yet there were differences between sectors and in relation to the position held within firms. For example, at equity partner level 74.4% of men had dependants compared to 52.7% of women. At all other levels a greater proportion of women than men had dependants.

Moreover, a far lower proportion of women in private practice had dependants compared to those women employed in other sectors.

A strong gender imbalance was apparent in relation to who is the primary caregiver, who takes time off work when a dependant is ill and who takes responsibility for household duties – such responsibilities most frequently falling on women's shoulders.

In the working environment an average of 42.5 hours per week was worked, although again there were differences according to gender and between sectors. Further, a higher proportion of men than women worked outwith 'standard office hours'. There was a significant difference between the proportions of male and female respondents engaged in part-time working (5.0%:23.2%).

Given the actual number of hours practitioners were found to be working, the perception of around half (49.7%) was that their organisation equated long hours with commitment. This changed significantly across sectors. This perception was also higher in private practice amongst the most recently qualified staff, who were more likely to be female.

A clear majority of all respondents in private practice (67.2%) believed they were striking a reasonable work-life balance and in this there was no gender division. However, differences in perception emerged when the responses were broken down according to the number of years respondents had been in practice. Perceptions about whether a reasonable work-life balance was

being achieved also varied according to the sector in which the solicitor was employed. Generally there were higher levels of satisfaction among those employed in sectors other than private practice.

Respondents were also surveyed on which 'family friendly' policies were available, with paid maternity leave and part-time working the most readily available whereas initiatives like crèche facilities and childcare vouchers were fairly rare. 'Family friendly' policies were more commonplace in sectors other than private practice.

Perhaps surprisingly a number of respondents stated that statutory entitlements were not available in their organisations.

When the take-up of 'family friendly' policies was examined, there was a significant gender dimension with a high proportion of those utilising policies like flexi-time, part-time working and home working being women.

■ Nature of Work

65.6% of female respondents believed that there was a perception within the profession that men or women are better suited to certain types of work. 36.0% of men shared that view.

However, when respondents were asked to state what perceptions, regarding gender suitability, applied to particular areas of legal work, there were very few areas where there was a strongly held perception that men or women would be better suited to that type of work – there were generally commonly held views about this.

The one exception was Family Law which was seen as having a female dimension. However there was a disparity of perception here according to gender. While 52.6% of respondents believed that there was a perception that women were better suited to carry out this work, this comprised 37.1% of male respondents and 62.8% of female respondents.

In respect of Construction, Corporate and Criminal Law, a majority of female respondents believed that there was a perception that men were better suited to these areas. In two of these (Construction and Corporate Law) male respondents did form a majority of the respondents who actually undertook such work

Women formed the clear majority of those working in the areas of Residential Conveyancing, Civil Litigation, Family/Matrimonial and Employment Law.

A substantial majority of those working in the Fiscal Service, for Local Authorities or as In-House Lawyers were women.

It should be noted that the areas where men dominate tend to be those which are regarded within the profession as being well paid whereas women form the majority in those areas regarded by respondents as being poorly paid.

■ Networking

In terms of networking, a majority of respondents believed that there was a perception within the profession that networking to generate business is undertaken generally by men although again this was sharply divided on the basis of gender.

Among that majority the main reason given was that networking focuses on male oriented activities but this was not endorsed when actual examples of networking carried out were examined. Those which could be defined as having a male slant, golf outings and other sporting events, were carried out by relatively few respondents compared to other types of networking activities.

There was a general feeling amongst all respondents that most networking took place outwith working hours.

While as many women as men appeared to network, male respondents were likely to participate in networking more frequently than females.

■ Remuneration

The issue of earnings proved to be a significant one in this survey.

Across the entire profession, and with no distinction being made between full-time and part-time working, a steadily increasing gender pay gap began to emerge after the first five years in practice. This reached its highest level at between 21–25 years after admission with a gap of £36,000 in favour of men. However, even for those admitted between 6–10 years the gap stood at £9,000.

This became more stark when private practice was examined separately, with the gap increasing at all levels: for those admitted between 6–10 years it was £14,000; at between 21–25 years after admission the gap was £42,000.

Although it was less extreme than in private practice, after the first five years in practice a gender pay gap could be identified in other sectors as well.

Even when those engaged in part-time working – which is more likely to affect women and their level of earnings – were excluded and the earnings of solicitors working full-time were compared, there was still a gender pay gap within private practice.

During the first five years following admission, men and women working full-time in private practice earned, on average, the same. However, for those admitted between 6–10 years, the gap was £11,000 and at between 21–25 years after admission, the gap was still at a level of £28,000 in favour of men. A notable exception, among full-time solicitors in private practice, related to those qualified between 16–20 years. For respondents in this category, there was a gender pay gap of £5,000 which favoured women.

In sectors other than private practice, the average earnings of women during the first five years following admission were £3,000 higher than those of their male counterparts. However, for those admitted between 6–10 years the positions were reversed with a gap of £3,000 in favour of men. A gender pay gap in favour of men was observed at all other levels with the exception of those admitted between 16–20 years where, as in private practice, there was a gender pay gap of £5,000 which favoured women.

It is the case that after the first five years in practice, there was also an earnings gap between those in private practice and those employed in other sectors. Those in private practice begin to earn more than those in other sectors and the gap increases substantially over time. This will also impact on the overall earnings position of women in the profession as a higher proportion of female solicitors than of male solicitors are employed in these sectors.

There was a level of disquiet in private practice, which was not present in other sectors, at a perceived lack of transparency in pay structures. However in both private practice and other sectors, there was a gender division over this question with a large number of women remaining unconvinced that pay structures were transparent.

Furthermore, when respondents were asked if they believed that colleagues of the opposite sex engaged in comparable work would be paid the same, there was a very significant perception gap on the basis of gender. In private practice 42.2% more men than women thought that people were paid the same with a gap of 29.7% in other sectors.

An overall majority of all male respondents believed that women were generally paid the same as men throughout their careers, 63.5% of men in private practice and 49.1% in other sectors. This was hugely different from the female perception. Most females believed that women were paid less at some stages in their career.

When asked to consider which areas of law are well paid or poorly paid – a question which is fairly gender ‘neutral’ – there was general unanimity among men and women.

■ Career Progression

Among the respondents to the questionnaire, 60% of men in private practice but only 20% of women were equity partners. There was a 69:31 male to female split among the equity partners.

When those in private practice were asked how long they believed it should take to become an associate, a salaried partner and an equity partner, the perceptions of men and women were uniform.

However, when respondents were asked how long it had actually taken them to achieve these positions, the responses disclosed that women took longer than men to become partners.

On average men became equity partners 2 years earlier than women.

In other sectors, it appeared that although men achieved their first two promotions more quickly than women, women achieved their third promotion on average 2 years earlier than men.

There were large differences in perception based on gender when issues influencing promotion were examined. For example, motherhood was considered as being very likely to be a barrier to partnership by 52.4% of women but by only 10.8% of men in private practice.

Further issues seen as barriers by women and which have an indirect gender dimension, such as part-time working and career breaks, were also viewed in a clearly different way by men.

Differences in perception based on gender were also present among those employed in sectors other than private practice but were less marked.

A higher proportion of men than women continued to have partnership aspirations. When asked why they no longer had such aspirations, 52.9% of women but only 6.9% of men cited work-life balance issues.

In other sectors, in contrast to those in private practice, similar proportions of men and women continued to aspire to promoted status (62.9%:63.8%).

Taking a career break was perceived, especially by women and particularly by those women in private practice, as creating a barrier to career progression within the profession.

In private practice, 82.9% of those who had taken a career break were women, while in other sectors the figure was 85.0%. Most of the women, in all sectors, took career breaks during the first ten years following admission and the most common reason for the break was maternity leave.

It was possible to determine the current position in the firm of those who had taken career breaks. 70.1% of female equity partners and 65.3% of female salaried partners had not taken a career break. 93.0% of male equity partners and 93.1% of male salaried partners had not taken a career break.

The relationship between part-time working and a solicitor's position within the firm was also studied. Of those women in private practice who worked part-time (23.6%), only 9.4% were equity partners.

89.2% of female equity partners worked full-time and whereas slightly more than 1 in 5 women working full-time were equity partners, rather fewer than 1 in 10 women working part-time in private practice were equity partners.

The majority of those women working part-time in private practice were to be found at assistant or associate level.

Conclusion

The research has disclosed major issues relating to gender within the solicitors' branch of the legal profession in Scotland. These centre around levels of remuneration, the high incidence of gender perception gaps and the continuing under-representation of women at equity partner level.

The overall picture of earnings of solicitors discloses a disturbing gender pay gap. Even when those working part-time are excluded, a pay gap remains at most levels and especially within private practice. A more detailed audit of solicitors' earnings may be called for.

In terms of attitudes within the profession, on gender neutral issues to which all respond primarily as solicitors there is general unanimity. However, when a question relates to gender and equality, either directly or indirectly, distinct perception gaps emerge which are based on gender and which in many instances are very significant.

This polarity of viewpoint across gender gives greater cause for concern given that employers within private practice remain predominately male.

Certain findings produced by this research suggest that there may be an issue surrounding the position of the proportion of female solicitors, especially in private practice, who work part-time. Further research is required into whether female solicitors engaged in part-time working find themselves paid less than others on a pro rata basis, are limited in terms of the quality and variety of work they are offered and do not achieve career progression.

Although of necessity the key themes are dealt with separately, the position of women in the profession is a product of the interaction of all of these factors. Accordingly a comprehensive strategy is called for which tackles equality issues on all fronts rather than in a piecemeal fashion.

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www.eoc.org.uk

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