

Diversity, Equity and Inclusion

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FOIL's strap line is "Informing Progress- Shaping the Future" of insurance law, acknowledging the ever changing face of insurance, the law and those who practice it.

It was with this in mind that we asked, who is practicing insurance law and are member firms looking at the impact of diversity, equity and inclusion policies and practices in the workplace on client and employee expectations. What is the ROI of DEI in terms of human and financial investment? And what are the risks of not getting DEI 'right'.

The independent 2024 report, "Transforming DEI Practices in Uk Insurance Law" highlighted two stark findings. Firstly, despite the ongoing drive to increase the number of women in leadership roles, 51% of women believed that their progression had been limited by their gender. Secondly, 55% of non-white respondents also felt that their careers had stalled due to the colour of their skin. Further still, when looking at the employment regulatory frameworks which support DEI in the workplace, only 14% of those who had reported inappropriate behaviour, were happy with the outcome of a formal or informal process. See link to full report: [First independent research focused on transforming EDI practices \(brownejacobson.com\)](https://www.brownejacobson.com/research/transforming-dei-practices)

FOIL's DEI sub-committee, met with members in February 2024 to discuss the ramifications of the report's findings, drawing on a panel of experts to discuss what DEI is, what good looks like and whether the insurance industry has both the desire and the commitment to effect positive change in the industry. We also asked how, if at all, FOIL's member firms can help the sector, to better navigate the path for effective DEI change. The session of course talked about concepts such as **conscious inclusion training** and how to be an **anti-racist organisation** but recognised that training alone will not shift mindsets and culture. Priorities need to be reassessed, in order to direct resource into DEI practices which could really drive change.

We asked what are the forces for DEI change in the insurance sector? Increased productivity? The client social value tender question? Or because diversity of thought is more likely to produce innovative solutions to assist our clients in today's market. However, creating a more diverse business, does not equate to a more inclusive business. Which means that there is a potential disconnect between the intended positive consequences of a more diverse team, department or business and the

reality of a firm's culture. If non-white staff do not feel that they are included, or belong, they are likely to leave earlier than their white peers. This is known as the "stay-gap". There continues to be pay gaps between women and men, and between ethnic minorities and white employees.

The Professional indemnity SFT, picked up this question when asking if EPL Insurance could be used as one to tool positively impact behaviours and culture in the workplace. The truth is that DEI is not a nice to have, it is actually a way to ensure that businesses are not exposed to reputational and financial damage for losses flowing from breaches of the statutory regulation which uphold the protected characteristics. [Equality Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk)

EPLI claims tend to arise where the hiring, promotion, assessment or development of individuals goes awry, and provides protection against losses arising from alleged discrimination in employment practices. Whilst one's sex, has long been a protected characteristic, 24 October 2024 saw the Worker Protection (Amendment of the Equality Act 2010), which strengthens the existing protection for workers against sexual harassment, by placing a new duty on employers to prevent sexual harassment. The fact that additional legislation is needed in 2024 proves, that we have a long way to go to change the cultures of workplaces, noting that the Sex Discrimination Act was enacted in 1975.

The SFT also wanted to explore the impact of increased scrutiny of DEI statements and practices on D&O insurance. The D&O SFT hosted a Roundtable discussion which focused on the "s" in ESG. The discussion was aptly entitled "Intent to Action" as it was noted that many SMEs and large corporate perhaps have policies to capture DEI but it remains questionable whether they implement such policies with the same level enthusiasm with which they represent their existence. D&O insurers should therefore be wary of "pinkwashing" (where companies overstate their DEI practices, policies and culture) which inevitably carries an exposure for D&O claims.

As such where DEI practices and policies are effectively implemented and imbedded with focussed targets for change, organisations should be able to minimise EPLI and D&O exposure, both in terms of premium spend, frequency and severity of losses.

The discussions in 2024 found firms to have an appetite for cultural change driven by sound, proven and impactful DEI practices. Staff value expectations are high, where culture of the business and what the leadership looks like, are ranked highly in decisions about whether to join one firm over another. Clients equally want to do business with organisations that are aligned to their values.

Putting business and reputational considerations to one side, delegates at both sessions agreed that imbedding sound DEI practices, policies and processes, is simply the right thing to do.

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