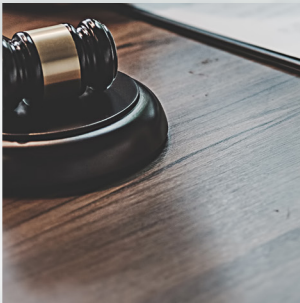




THE LAW SOCIETY
OF SINGAPORE



LEVELLING *the Playing Field*



REPORT ON GENDER DIVERSITY IN
THE SINGAPORE LEGAL PROFESSION



INTRODUCTION

In March 2018, the Law Society of Singapore (“LSS”) established the Women in Practice Taskforce (“the Taskforce”), and charged it with addressing issues faced by female legal practitioners in Singapore, with a view to improving their representation in legal practice.

One of the key steps taken by the Taskforce was to conduct a survey of female members of the Singapore legal profession. The goal was to gather information to facilitate a better understanding of the needs and experiences of women lawyers in active practice today. The survey was released on 6 July 2018 and remained open for completion until the end of September 2018. The Taskforce received over 500 responses, which (at approximately 20% of women called to the Singapore Bar) amounted to a very healthy participation rate.¹

To supplement the data gathered from the survey, the Women in Practice Committee (“WIP Committee”) hosted a series of roundtable sessions in 2019, with participants from: (a) the junior, middle and senior categories of female lawyers; (b) managing partners, hiring managers, and recruiting partners (both male and female); and (c) male lawyers.

This report (“the Report”) sets out the findings based on data gathered. It also sets out the WIP Committee’s recommendations on how the profession can continue to attract, retain and promote women in a fair and supportive manner.

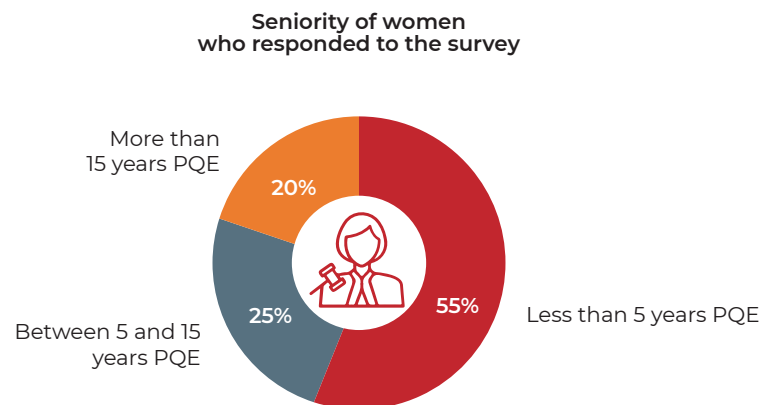


Who Responded to the 2018 Survey?

A varying number of women at different seniority levels responded to this survey, with the largest respondent group being women with 1 year of post-admission experience (17%).²

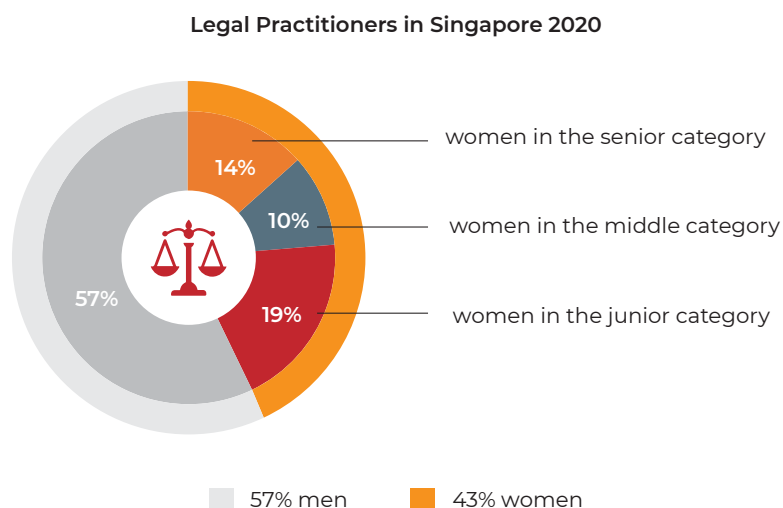
The second largest group, accounting for 12% of respondents, came from women with 20 or more years of post-admission experience.

There was a particularly low number of women respondents in the mid-level category, with only 23 respondents having had 8 to 9 years Post-Qualified Experience ("PQE")³, and 18 with between 13 and 17 years PQE.⁴ There were 50 respondents who had between 10 and 12 years PQE.

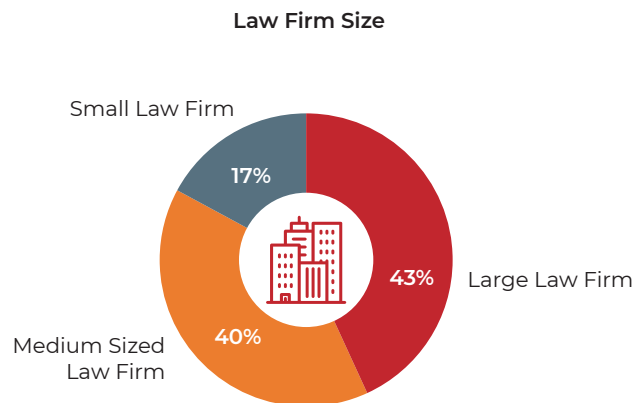


The breakdown of respondents by experience is generally reflective of the levels of seniority of female lawyers in practice today. Of all practicing lawyers in 2020, 19% are women in the junior category (i.e. less than 5 years PQE), 10% are women in the middle category (i.e. between 5 and 15 years PQE), and 14% are in the senior category (i.e. more than 15 years PQE).

* In 2020, 43% of lawyers holding a practicing certificate were women. Based on 2020 figures, the ratio of male to female practitioners in junior and middle categories is around 1:1 and this drops to 3:1 at senior levels.



In addition, a majority of respondents (43%) indicated that they practiced at a firm with more than 30 lawyers, followed closely by lawyers who practiced in medium-sized law firms (40%). Less than 20% indicated that they practiced in a small law firm.



The generally representative spread of respondents suggests that all women lawyers, regardless of seniority or law firm environment, are equally interested in identifying and addressing issues relevant to their practice of law. That said, the survey results revealed a group of female lawyers who face a particularly pressing circumstance, namely, women lawyers with young children. Of the respondents who indicated they had children, more than 70% stated their children were under the age of 7. Clearly, specific focus should be given to how this group of practitioners can be better supported in balancing their child-rearing and professional commitments.



The 2019 Roundtable Sessions

To further the aims of the Taskforce and take on a long-term approach to the issues, the LSS established the WIP Committee on 1 January 2019.⁵

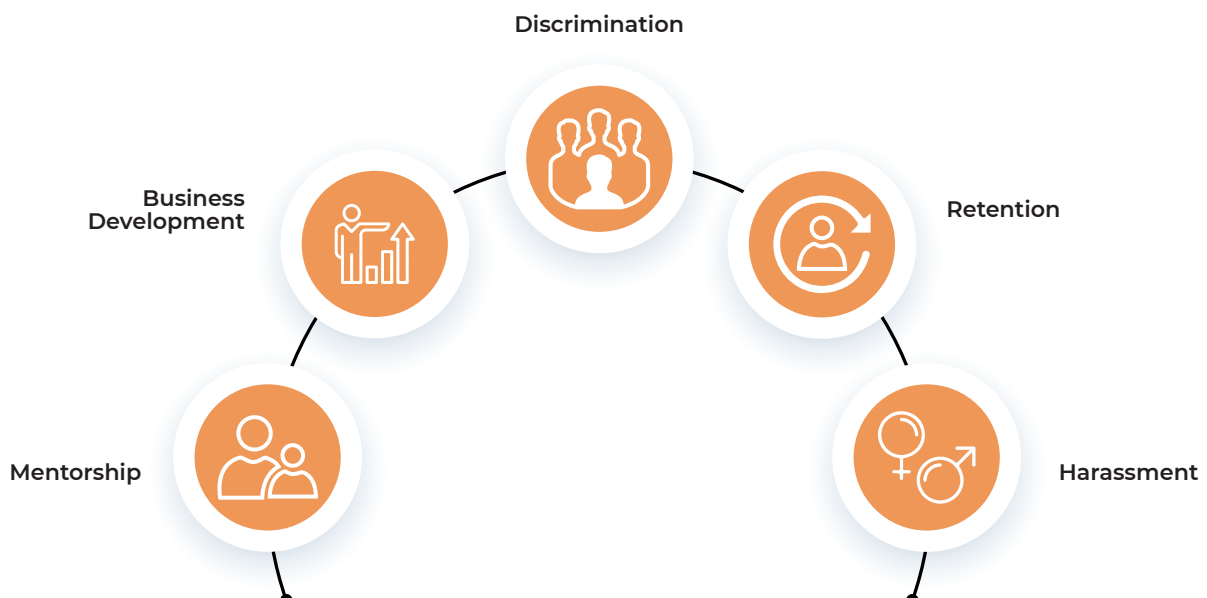
Through the course of that year, the WIP Committee hosted a series of roundtable sessions to gain real-life insights into the areas of recruitment and retention practices, career-support from firms and peers, and any major institutionalised challenges that must be overcome. The purpose behind these sessions was to ascertain whether women are, in present-day legal practice in Singapore, still at (or perceived to be at) a disadvantage compared to their male counterparts.



In order to ensure that a fair cross-section of views was obtained, sessions were conducted for:

- (a) The junior, middle and senior categories of female lawyers;
- (b) Managing partners, hiring managers, and recruiting partners (both male and female); and
- (c) Male lawyers.

The discussion at each centred on the 5 issues reflected in the diagram below:



What did the Roundtable Sessions Reveal?

Some of the recurring themes revealed at these sessions included the following:

01 ***There is a Pervasive Lack of Understanding of the Business Case for Gender Diversity Initiatives.***

There was an overall misperception, by both male and female lawyers, that gender diversity initiatives are purely altruistic in nature, existing only to help women reach the same levels of success as their male counterparts.

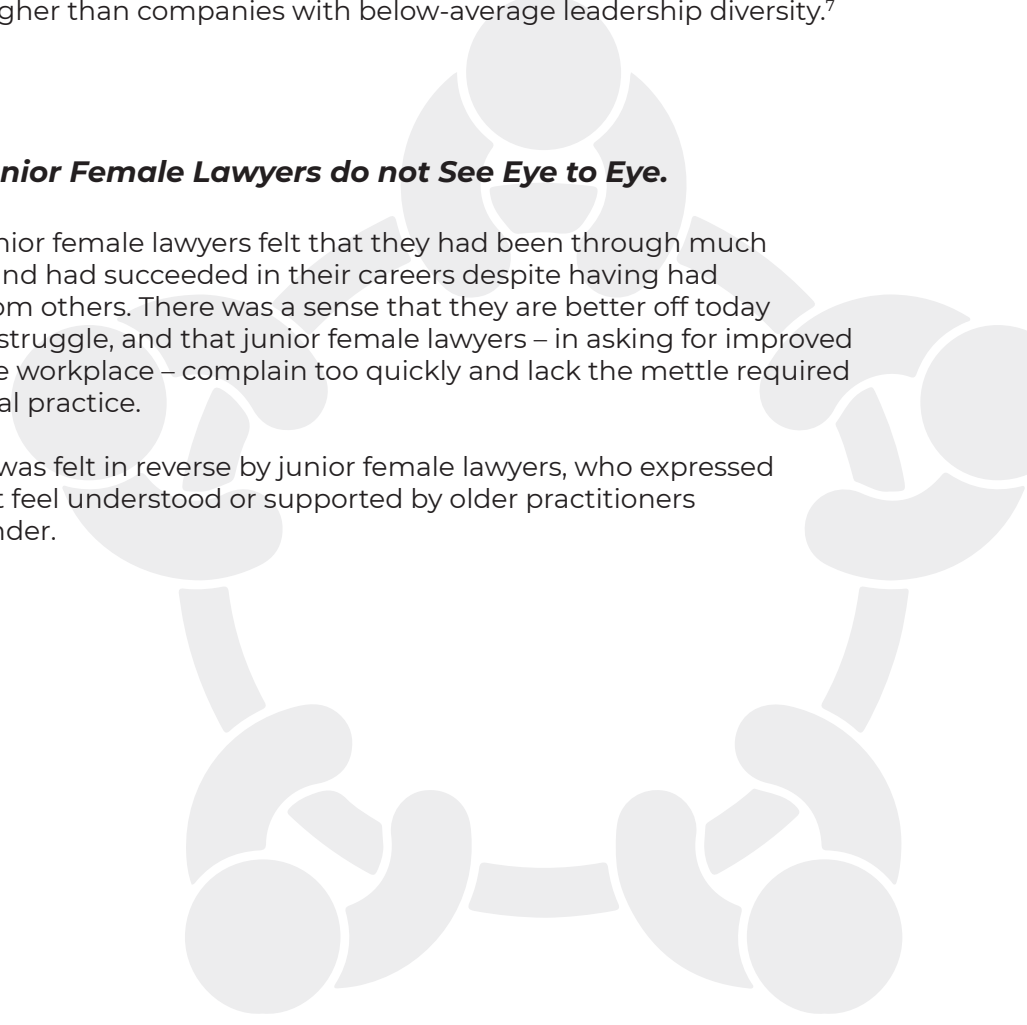
However, research findings demonstrate that there are clear commercial benefits to increase gender diversity in the workplace. Studies have shown that there is a direct correlation between increased gender diversity and organisational profitability.

In 2018, McKinsey & Company found that companies with high executive-level gender diversity, had a 21% likelihood of outperforming companies with fewer female executives. These companies also had a 27% likelihood of outperforming companies with fewer female executives, on longer-term value creation.⁶ In 2018, the Boston Consulting Group found that companies with above-average management-level gender diversity, reported revenues 19% higher than companies with below-average leadership diversity.⁷

02 ***Senior and Junior Female Lawyers do not See Eye to Eye.***

A number of senior female lawyers felt that they had been through much tougher times and had succeeded in their careers despite having had little support from others. There was a sense that they are better off today because of this struggle, and that junior female lawyers – in asking for improved treatment in the workplace – complain too quickly and lack the mettle required to survive in legal practice.

This sentiment was felt in reverse by junior female lawyers, who expressed that they do not feel understood or supported by older practitioners of the same gender.



03 ***There is a Misperception by Male Lawyers that Workplace Gender-Parity Initiatives Exist at the Expense of Meritocracy.***

In their view, meritocracy is a fair and widely accepted method of assessment in recruitment and promotions. This method should therefore trump the active encouragement of diversity as gender-parity initiatives may work to the disadvantage of male lawyers. This misperception neglects the fact that various types of unconscious bias are embedded in the process of making hiring decisions, and as a result, there is not a level playing field for equally qualified male and female candidates.

Several participants in the roundtables (especially of male lawyers / hiring or recruitment partners) confessed that when considering two candidates with equally attractive academic qualifications, experience and demeanour, there was a propensity to hire the male candidate. This stemmed from a complex combination of the mirror effect (i.e. unconsciously preferring candidates similar to oneself), considerations on the cost to the firm of possible statutory maternity leave entitlements, the expectation that female candidates would require more time away from the office to perform family commitments, and the misconception that male lawyers are generally better suited to certain practice areas, such as criminal or maritime law.

04 ***There is a Lack of Diversity or Inclusion-Related Policies and Training in Singaporean Law Firms.***

Most Singaporean law firms do not have a basic diversity and inclusion policy. Likewise, most do not have comprehensive policies and training in place on the issues of gender-parity in recruitment, promotions, earnings, mentoring, unconscious bias, sexual harassment, and bullying.

In contrast, foreign law firms in Singapore tend to have at least basic policies and training in place.

05 ***Sexual Harassment / Bullying are not an Entrenched Culture within Singaporean Law Firms.***

That said, the anecdotal instances shared at the roundtables were of sufficient seriousness to warrant a concerted increase in training and awareness efforts in this area.

There was also a general perception amongst women lawyers that the victim in such cases inevitably faces a no-win situation, particularly where the perpetrator is a more senior lawyer in the same firm. The unanimous sentiment was that the victim would suffer career repercussions for reporting the wrongdoing concerned, and the perpetrator would be believed over them.

What this Report Seeks to Achieve

The WIP Committee has, from the survey and roundtable data, identified 4 key areas requiring immediate focus. This Report seeks to highlight some of the qualitative and quantitative data uncovered in these areas and will set out an overview on the steps needed to tackle the existing shortcomings.

It is hoped that the contents of this Report will raise awareness of the issues amongst members of the legal profession, so that the legal profession in Singapore can attract and retain the best talent, both male and female.

This is necessary if we are to remain globally competitive.⁸

The 4 key areas are:



MENTORS AND SPONSORS

Mentoring vs Sponsoring

Mentoring is the longest-known form of professional counselling, whereby a junior worker can benefit from the insights and experiences of a more senior one. The benefits of mentoring lie in its flexibility: mentoring can be formal or informal, and can cover a wide range of issues, including work or more personal topics such as balancing career commitments with family life. Mentoring done well can have significant positive benefits on the well-being and professional development of the mentee. Indeed, it is said to possess one of the highest professional returns on investment, by enabling senior workers to 'pay it forward' and shape the next generation of leaders.^{9,10}

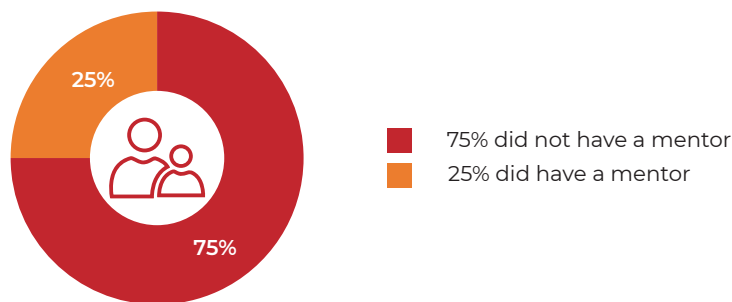
Distinct from mentorship, is sponsorship. A sponsor is a senior worker who is personally involved / invested in the career success of a junior worker. Sponsors typically promote their protégé directly, and use their influence and networks to connect the latter to high profile assignments, exposure, promotions, and pay increases. Sponsorship lays the foundation for measurable differences in career development and advancement, and is known to be a critical recruitment and retention tool for businesses.¹¹



What is the Status of Mentorship and Sponsorship in the Singapore Legal Profession?

The 2018 survey revealed that over 75% of respondents did not have a mentor, other than their formal workplace supervisor.¹² However, of the respondents who indicated they did have a mentor, over 90% identified their experience as helpful.¹³ This positivity was equally reflected where mentors were asked whether they considered the mentoring experience to be fruitful and rewarding.¹⁴

Respondents with a mentor



The majority of respondents who benefited from mentoring indicated it helped them gain knowledge on how to plan and advance their careers and add value to their roles. Just under 75% of respondents indicated they received and benefitted from mental support and encouragement from their mentoring relationship.¹⁵

Mentoring has helped...



The roundtable sessions revealed that there was a general consensus amongst lawyers that mentoring is a useful professional development tool and that there is a lack of consistency within Singaporean law firms in adopting and sustaining mentorship schemes. For example, a number of firms offered formal mentorship arrangements specifically to benefit junior lawyers only. In other firms, lawyers were left to their own devices to develop more casual mentorship relationships within the firm, over time.

It was generally agreed at the roundtable sessions that 'chemistry' between the mentor and mentee is critical to ensuring longevity and success of the relationship. Interestingly, when asked whether the gender of the mentor affected the frankness of discussions, there was general consensus amongst the male lawyer participants that male mentors would be more relaxed around male mentees.¹⁶ Female lawyers, on the other hand, held the contrary view; that the gender of the mentor did not matter, unless the issue being discussed was gender specific (e.g. such as advice related to maternity leave).¹⁷



Additionally, feedback at the roundtable sessions indicated that female lawyers want a mentor who is comfortable discussing a good cross section of practice-related topics, not just gender specific ones. Topics on which female lawyers expressed they would like guidance on included legal and practice-related skills, business development, client management skills, emotional intelligence, and maintaining work life balance.¹⁸

During a roundtable session for middle category lawyers, a participant indicated she had observed that junior lawyers were always excited about potentially working with more senior women.¹⁹ Another participant said that law firms can do better at being sensitive to women's needs, especially with respect to maternity leave. This feedback suggests that there is a desire for increased mentorship and guidance for female practitioners, particularly at certain milestones in their lives (e.g. when returning to work after maternity leave or a sabbatical). The data on when female lawyers tend to leave or take breaks from practice also supports this: approximately 29% of members who responded to the survey indicated that they had taken at least one break of more than 3 continuous months from practice since they were called to the Bar.²⁰ Reasons cited for taking a break included burn out from work, unhappiness with the work life culture, family reasons and the desire for greater work life balance.

As for sponsorship, it would appear that this is not a concept that is well understood by Singapore lawyers. Sponsoring was rarely raised or discussed during the roundtable sessions, and if raised, participants informed that they were unclear of what it meant, or how it could benefit them professionally.

On a related note, a viewpoint that arose on a number of occasions was that some senior female practitioners felt that the modern day junior female lawyer is too 'soft'. Instead of offering to provide guidance or support in overcoming gender-parity obstacles, their advice to the junior practitioner would be to toughen up, as the senior practitioner has had it much tougher during her time. Generally, this is not the input that younger lawyers are seeking – they want more practical examples on how to overcome such challenges and level the playing field by effecting change.

What is the Cost to the Legal Profession if Nothing Changes?

It is well accepted that mentoring programmes, both formal and informal, can provide direct and indirect benefits to individual employees, and improve overall job satisfaction and retention. This brings a clear net benefit to businesses.²¹ Mentoring also plays a part in providing companies with a pipeline of potential women leaders of the future, and allows younger women to emulate more senior and successful female role models.²²

As for sponsorship, this encourages women leaders to bring junior women with them along their leadership journey, allowing women overall to benefit from the network connections that will aid in elevating their careers.

Unfortunately, it appears from the information and data obtained that there is a lack of appreciation across Singaporean law firms and lawyers of the benefits - both commercial and otherwise - that mentorship and sponsorship arrangements can provide. At the law firm level, there is no consistent approach, nor is priority given, to implementing and sustaining such opportunities for lawyers.

Ultimately, mentorship and/or sponsorship schemes directly facilitate the retention and professional growth of female lawyers in legal practice. If there continues to be a lack of appreciation of the benefits of such schemes, law firms and the legal profession will undoubtedly suffer a loss of talent.

Recommendations

As more women move up the career ladder and into leadership positions, mentorship, sponsorship, and learning from role models becomes increasingly important. Structured programmes will allow young female lawyers to learn and develop skills to enhance their career development, and will help build the female talent pipeline for succession.

To that end, it is recommended that:

- At the law firm level, formal mentoring programmes be developed and implemented. Given that lawyers continue to seek guidance on different issues throughout their careers, these should be made available to lawyers of any level of seniority.
- Law firms should also issue guidelines and conduct training for mentors, to advise them on how to maximise their mentor / mentee relationship. In fact, training should also be offered to potential mentees, to help them understand the value of identifying and building appropriate mentorship / sponsorship relationships. This will be of particular benefit to junior lawyers, who can plan how to select the right mentor(s) at the right time(s) in order to best build their careers. Specific focus should be placed on encouraging female lawyers to participate in these programmes, as they require targeted guidance at certain unique life milestones (e.g. balancing childcare needs, returning from maternity leave).
- At the profession-wide level, the LSS should facilitate meetings between the junior, middle and senior categories of female lawyers. This will encourage an environment of support and collegiality amongst women in the profession, that transcends the confines of any specific law firm or practice area. Networking and relationship-building opportunities with other legal organisations, such as the Singapore Academy of Law and the Singapore Corporate Counsel Association could also be considered for this purpose. It is hoped that these opportunities will encourage female lawyers to connect with others and build effective mentorship / sponsorship relationships.
- The LSS should also monitor whether structured mentorship and sponsorship programmes are being adopted across the profession, and assess whether female practitioners are seeing tangible benefits from the same. To this end, it is recommended that the WIP Committee continue to gather data and feedback on an ongoing basis.

FLEXIBLE WORK ARRANGEMENTS

What is Flexible Working?

In 2001, the Ministry of Manpower and the (then) Ministry of Community Development and Sports commissioned a study on flexible work arrangements in Singapore.²³ The resulting report defined flexible work arrangements as including flexible-time, permanent part-time work, job-sharing, compressed work weeks, teleworking, and annualised hours.

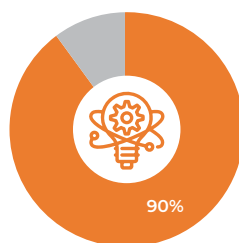
The report also noted that the successful implementation of flexi-work arrangements contributes to a conducive and supportive work environment, and enables companies to attract, motivate, and retain employees who are committed to helping the organisation achieve commercial success.



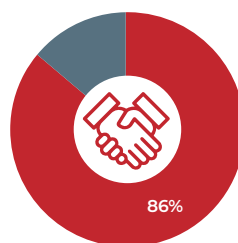
What is the Status of Flexible Working Arrangements for Female Lawyers in Singapore?

On a positive note, more than half the respondents to the survey indicated that their law firms permitted alternate work arrangements (alternate work arrangements in the survey being defined as flexible-work, part-time work, job-sharing, or work-from-home)²⁴. Close to 90% of survey respondents indicated that the success of their alternative work arrangement was due to the provision of technology, which allowed for the seamless ability to work from home. 86% of respondents highlighted the importance of open communication and trust between them and their manager in contributing to the success of the arrangement. Approximately 25% of respondents indicated that they did not feel that the policies within their law firm on this issue were discriminatory (i.e. only permitting women or men access to flexi-work).²⁵

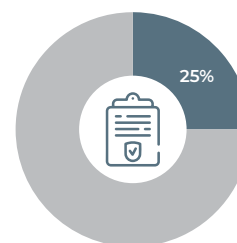
Circumstances where Flexible Work was Successful



Provision of Technology



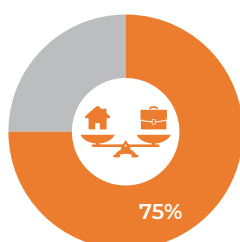
Open Communication and Trust



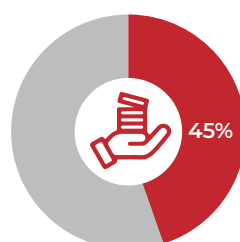
Work Place Policies were not Discriminatory

Importantly however, around 75% of survey respondents did not feel that their alternative work arrangement provided them with the work-life balance they had sought, indicating that this was due to the erosion of personal time and space. Approximately 45% of respondents stated that they received part-time pay for what turned out to be a full time workload, and that there was a lack of career progression due to such arrangements. 5% of respondents expressly indicated that their flexible work arrangements had been unsuccessful due to a lack of family support.²⁶

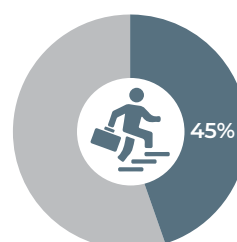
Challenges with Working Flexibly



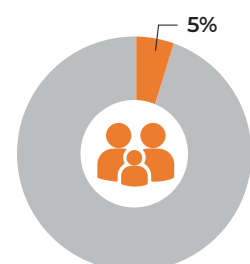
No Work Life Balance



Received Part-time Pay for Full-time work



Experienced Lack of Career Progression



Lack of Family Support

The roundtable sessions revealed that law firms still expect lawyers to show 'face time' in the office, as a precondition to professional advancement.²⁷ There is a common belief amongst employers that lawyers who do not clock as many hours as their peers are not contributing in a commercial sense, and should therefore not be given equal credit. There is also an entrenched perception across the profession that only lawyers who are less committed to their work would ask for an alternative work arrangement. Hence, women feel reluctant to ask for, or especially judged when they ask for flexible work arrangements.²⁸ Moreover, given that many such requests arise from a woman's need to, for example, care for family members, they are effectively being penalised for attempting to balance their various life obligations. Men do not generally take on such obligations and therefore experience far fewer obstacles to working full time in the office.



The roundtable sessions also revealed a general sense that whilst alternative work arrangements could be adapted to certain types of corporate or transactional work, they would be virtually impossible to implement for disputes-related work, due in part to the tight timelines and ongoing demands involved. There is a perception in Singapore that women tend to move into the former category of work when they plan to start families. There is also a perception that, for women in disputes, taking time off from your career would set you back from your male counterparts. In 2020, proportionally more women (6% more) indicated on their practicing certificate renewal form that they worked in corporate practice rather than civil and commercial litigation.²⁹ This could indicate a growing interest in taking on a legal career that presents the chance of better work life balance, and the figures in this area should continue to be monitored.

As an aside, the 2020 COVID-19 circuit-breaker period has been an interesting case study on how work-from-home arrangements could exist for both disputes and non-disputes legal work on an extended basis. It is recommended that further study be conducted on how this period has affected female practitioners (particularly those with young children), and employers' attitudes towards presenteeism.

Ultimately, if female lawyers are unable to balance competing needs of work and family, they will leave practice. Indeed, as the demand for specialised legal expertise grows, many legal organisations look to enlist the help of independent legal consultants on a project basis. Lawyers who are drawn to a flexible schedule and a wide variety of assignments may consider such a legal consulting career as a better fit, and may well leave a traditional legal practice in order to find better balance in their personal and professional goals. This type of talent drain can only be to the detriment of the profession as a whole.

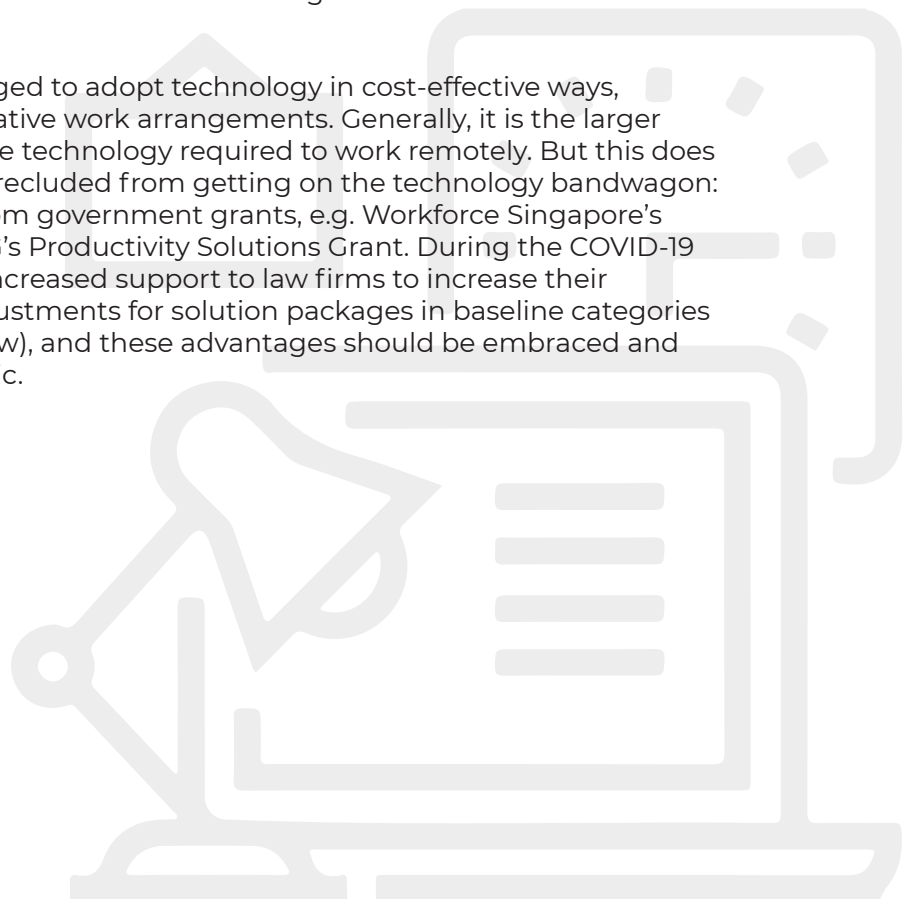
Recommendations

The data suggests that unless a certain amount of respect for time and workload is offered to the lawyer taking on the flexible work arrangement (by the law firm, clients, and the lawyers' own family members), the main goal of taking on the arrangement, i.e. work-life balance, is a difficult one to achieve. Without this, the lawyer concerned becomes unable to obtain the full benefits of the arrangement, which leads to more stress for less benefits and, ultimately, a counterproductive situation. Bearing this in mind, it is recommended that law firms develop clear systems or boundaries that will allow flexible work arrangements to serve their intended purpose. This would necessarily involve maintaining an open channel of communication with the lawyer concerned to understand whether the arrangement is meeting the lawyers' needs.

What is also needed is an attitudinal shift by employers in the legal industry, and a better understanding of the longer-term business case for allowing flexible working. For example, such arrangements empower lawyers to feel appreciated and trusted by the employer, thereby becoming motivated to contribute more to the law firm's growth. There should not be a misconception that there is less output from lawyers who are on flexible working arrangements. In addition, the ability to have more control over one's personal time may also alleviate the perennial problem of burnout amongst younger lawyers, caused by long hours spent in the office. As part of this cultural shift, new ways of assessing performance should also be introduced to ensure competence is rewarded fairly, regardless of hours spent in the office. For example, performance could be assessed on output and quality of work, rather than time spent on work tasks.

The LSS can also play a role in advocating changes in this area. It can encourage law firms to adopt such arrangements, provide guidelines on the mutual understanding and parameters needed to make such arrangements work, and provide education on how such arrangements can translate to clear and long-term commercial benefits for the law firm.

Law firms should also be encouraged to adopt technology in cost-effective ways, to promote the adoption of alternative work arrangements. Generally, it is the larger firms that already have in place the technology required to work remotely. But this does not mean that smaller firms are precluded from getting on the technology bandwagon: smaller firms can seek support from government grants, e.g. Workforce Singapore's Work-Life Grant and Enterprise SG's Productivity Solutions Grant. During the COVID-19 pandemic, the government also increased support to law firms to increase their technological capabilities (e.g. adjustments for solution packages in baseline categories offered under Tech-celerate for Law), and these advantages should be embraced and continued even after the pandemic.



UNCONSCIOUS BIAS

What is Unconscious Bias?

The term '*unconscious bias*' refers to both positive and negative stereotypes that affect our understanding, decisions, or actions concerning an individual, on an unconscious level.³⁰ We are all hardwired to make implicit associations, resulting in biases, stereotyping, and discrimination. These develop and are reinforced through the influence of family, friends, and colleagues who share them, as well as from the wider influences of culture and media. Over time, our biases reify our unconscious thinking.³¹

The legal world is certainly not immune to this; the data shows that unconscious bias impacts the manner in which lawyers and law firms recruit, manage, retain, and promote staff. It also manifests itself in client perception and how lawyers choose or are assigned to practice areas.



Is Unconscious Bias a Problem for Female Lawyers in Singapore?

Yes, it is. Unconscious bias pervades recruitment, retention and career progression, for many reasons and in many ways. Indeed, the Law Society of England and Wales 2017/2018 survey indicated that the presence of perceived unconscious bias in the legal profession was the most commonly cited reason why only a handful of women were able to attain senior positions.³²

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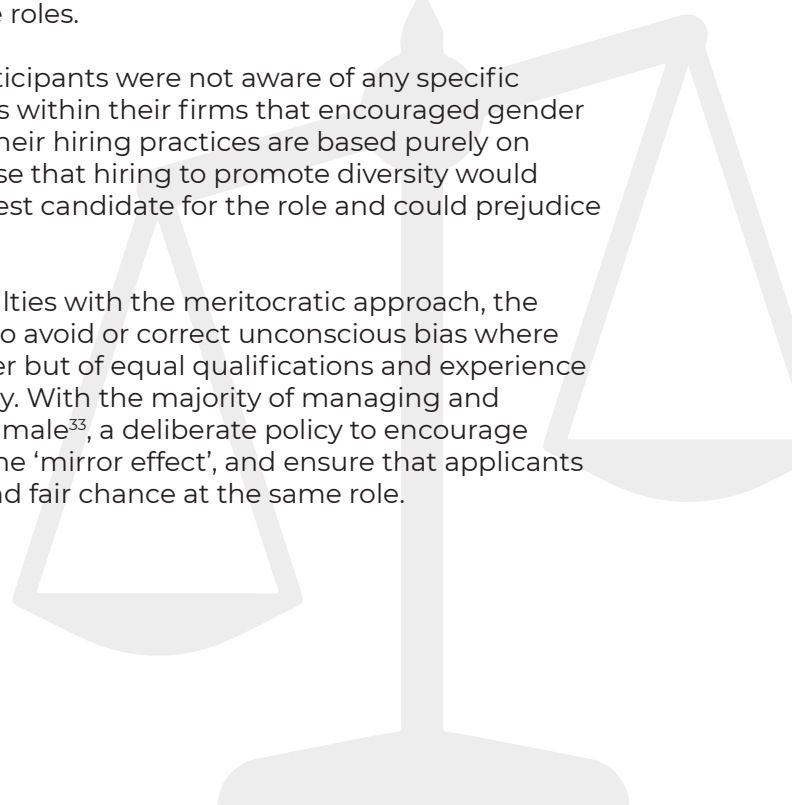
Recruitment, the 'Mirror Effect', and the Myth of Meritocracy

Recruitment or managing partners and senior male lawyer participants of the roundtable sessions, commented that it is not unusual for them to be concerned about the longevity of a new female hire. This is because female hires will come to have more familial commitments than their male counterparts. Some also revealed that employers tend to be favourably biased towards interviewees who were similar to them (gender included), and were more likely to hire persons from this group because of a sense of familiarity and mutual approval. This is a form of unconscious bias known as the 'mirror effect'. Thus, if more male lawyers are in charge of the interviewing process, more male candidates may unconsciously be selected.

It was also observed that female lawyers being considered for new roles / promotions are often asked about their personal or familial plans (such as when they plan to marry or start a family), whereas their male counterparts are not. Some female roundtable participants also relayed that they were asked in interviews if they had issues with working longer hours, while work-life balance did not seem to be a common question asked of male lawyers interviewing for the same roles.

Generally, senior male lawyer participants were not aware of any specific recruitment policies and practices within their firms that encouraged gender diversity. Most emphasised that their hiring practices are based purely on merit, and took pains to emphasise that hiring to promote diversity would come at the cost of getting the best candidate for the role and could prejudice male counterparts.

In truth, there are inherent difficulties with the meritocratic approach, the most obvious being the inability to avoid or correct unconscious bias where two candidates of different gender but of equal qualifications and experience come up for the same opportunity. With the majority of managing and recruitment partners likely being male³³, a deliberate policy to encourage gender diversity will counteract the 'mirror effect', and ensure that applicants of either gender have an equal and fair chance at the same role.



02 ***Assumptions on Gender, Ability, and Assignment Allocation***

During the middle category and male lawyer roundtable sessions, participants agreed that there was a perception that women leaders were ‘difficult and particular’ and needed to ‘assert authority’ – whereas the same attributes observed in male counterparts were applauded as signs of confidence. A male lawyer indicated that women leaders were at risk of ‘getting put down by men³⁴, and others shared the view that female lawyers may be more deferential, and if female lawyers were young and pretty, they were not taken seriously.



Regardless, most male lawyer participants did not think that opportunities were being withheld from women due to assumptions on gender roles.³⁵ This general optimism, however, did not carry through to what women lawyers experienced in real life, particularly as they progressed to more senior levels. In the roundtable sessions, middle category female lawyers advised that they were missing out on opportunities due to assumptions about their gender, and stated that they definitely had to work harder to prove themselves as compared to their male counterparts. This caused them a perennial conundrum: if they showed concern for others, they were perceived as being less competent and too emotional. However, if they challenged these stereotypes by showing determination and ambition, they were criticised for being aggressive and difficult. In contrast, the same attributes in male counterparts would win them praise for being empathetic or confident.

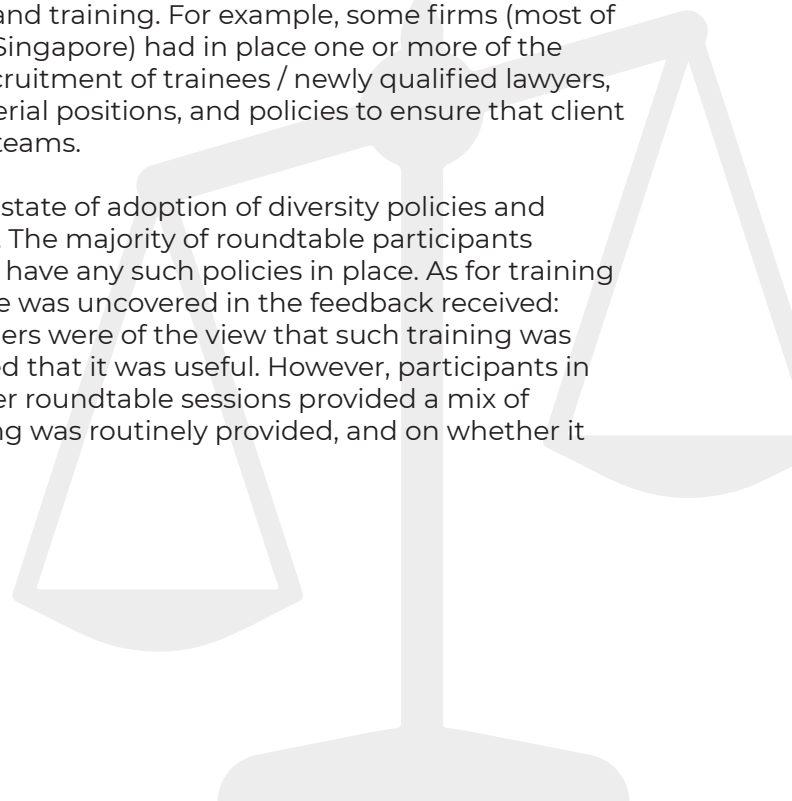
The 2019 International Women in Law Report noted a common stereotype of female lawyers as lawyers who are 'good academically', but not at court advocacy. Closer to home, female participants to the WIP survey and roundtable sessions reflected similar experiences, where clients demonstrated a reluctance to accept advice from a female lawyer, but willingly accepted the same advice from a male colleague. Likewise, some female participants shared experiences of encountering clients who were reluctant to entrust female lawyers with difficult or complex cases.

The data collected also showed that unconscious bias was prevalent during assignment allocation. Female lawyers were presumed to be more emotional, and therefore better in areas such as human rights and family law. They were often overlooked in other legal sectors, such as offshore oil and gas, construction, or when security risks were at stake. One roundtable participant shared that in her firm, it was perceived that male lawyers would be less intimidated by law enforcement than female lawyers, and they would thus be more 'helpful' for white-collar crime work. Participants also shared that some women lawyers who had families were not considered for overseas assignments, simply because it was assumed they would not want to be separated from their children.³⁶ In this case, not only were the female lawyers unable to exercise their right to choose, they also faced greater career stagnation.

03 *No Consistent Approach to Adopting Diversity and Inclusion Policies and Training*

The feedback revealed that firms in Singapore vary greatly in their adoption and implementation of such policies and training. For example, some firms (most of which are foreign firms based in Singapore) had in place one or more of the following: diversity targets the recruitment of trainees / newly qualified lawyers, targets for promotions to managerial positions, and policies to ensure that client pitches included gender-diverse teams.

As for Singaporean law firms, the state of adoption of diversity policies and training is still a work-in-progress. The majority of roundtable participants confirmed that their firms do not have any such policies in place. As for training on unconscious bias, a dissonance was uncovered in the feedback received: managing and recruitment partners were of the view that such training was conducted regularly, and indicated that it was useful. However, participants in the junior, middle and male lawyer roundtable sessions provided a mix of feedback on whether such training was routinely provided, and on whether it served any commercial benefit.



04 *The Confidence Gap*

A participant from the middle category roundtable session shared that while men easily and confidently speak up about their achievements and/or ability to take on new assignments, women tend towards taking more time to carefully evaluate whether they should sell themselves as being capable of the type of work on offer. Often, at the end of the self-evaluation process, the female lawyer decides that someone else would be better suited for the assignment, or finds that another lawyer had already taken up the assignment.

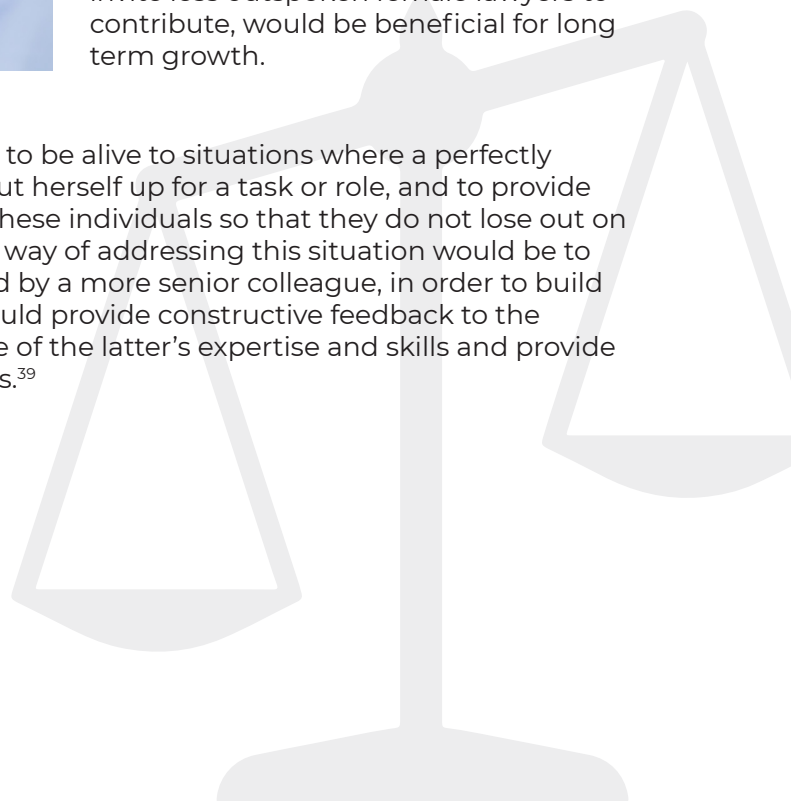
Other roundtable participants indicated they had often observed similar phenomena. This is typical of an unwarranted lack of confidence suffered by females in the workforce. Bearing in mind that their male counterparts do not face similar deficiencies in self-worth, this phenomena is known as the 'confidence gap'.



While some may discount this as a personality trait unique to only some individuals, studies have shown that this approach is disproportionately adopted by females.³⁷

It is detrimental to the quality of work produced by the profession as a whole, if employers assume that only the most capable candidates will speak up and offer themselves for a role or task or allocate the work by default to the first hand raised. Conscious effort on the part of seniors and peers to expressly invite less outspoken female lawyers to contribute, would be beneficial for long term growth.

It is thus important for employers to be alive to situations where a perfectly qualified female lawyer has not put herself up for a task or role, and to provide an encouraging environment to these individuals so that they do not lose out on well-deserved opportunities. One way of addressing this situation would be to have female candidates mentored by a more senior colleague, in order to build their confidence.³⁸ The mentor could provide constructive feedback to the mentee, in order to build a picture of the latter's expertise and skills and provide them with a sense of effectiveness.³⁹



What is the Cost to the Legal Profession if Nothing Changes?

Unconscious bias not only adversely affects a female lawyer's professional confidence, but also forces her to work (and expect to work) much harder than her male counterparts for the same opportunities. This is an implicit 'tax' levied on her if she wants to stay and succeed in the profession. If others involved in recruitment and the retention of lawyers do not actively challenge and address their biases, the negative stereotypes against female lawyers will remain entrenched, causing them to face unfair roadblocks at various stages of their careers.

In fact, it is not only individual lawyers that suffer from the negative effects of unchecked unconscious bias. Law firms are affected too. If a firm continues to lose female talent, particularly at the more senior levels, it will face not only experiential consequences, but also financial ones. Indeed, clients today are increasingly savvy about the commercial benefits of a diverse workforce, and many expect their service providers to embrace diversity both within the firm as a whole, and within the specific teams assigned to work on their matters.

Overall, the legal profession in Singapore will set itself apart (for the wrong reasons) from regional and global counterparts if nothing is done to prevent the attrition of female talent from legal practice.

Recommendations

Both education and a changed mind-set are needed before instances of unconscious bias can be effectively identified and addressed.⁴⁰ Lawyers in leadership positions should make a concerted effort to implement policies and offer compulsory training on unconscious bias. The training must, at the very least, teach lawyers and those in charge of recruitment to recognise the commercial benefit of hiring and retaining female talent, and to be alert to the common areas in which biases may unwittingly come into play.

It is also recommended that unconscious bias training form an integral part of a lawyer's professional development in Singapore. In New Zealand, all lawyers wishing to practice, whether alone or in partnership or in an incorporated practice, must complete the *Stepping Up* course,⁴¹ which includes a component called *Unconscious Bias and Preventing and Dealing with Harassment and Bullying*. This is intended to ensure that lawyers entering practice will be armed with the awareness and skills to provide an appropriate environment for staff and clients. Raising awareness of this issue at the professional-skills level will enable more lawyers to recognise unconscious bias and its pitfalls, and will – it is hoped – ultimately result in a shift in culture in the legal profession.

The LSS and the profession at large should also give further consideration to whether additional, specific measures may serve to uncover and address instances of unconscious bias. For example, consideration should be given to whether law firms should adopt a transparent approach and publish data on their gender equivalence on issues such as recruitment, promotions, and pay. Likewise, the LSS must consider whether it is necessary or helpful to propose any requirements for gender equivalence in these areas. These are important issues for the WIP Committee to analyse in its future work.

SEXUAL HARASSMENT AND BULLYING

What is Sexual Harassment and Bullying?

In 2018, the International Bar Association (“**IBA**”) conducted the largest-ever global survey on bullying and sexual harassment in the legal profession.⁴² Nearly 7,000 individuals from 135 countries, including Singapore, responded to the survey. The resulting report identified the most common manifestations of bullying as including ridicule and demeaning language, overbearing supervision, and misuse of power or position.⁴³ The report also found that the most common forms of sexual harassment were sexual or sexist comments, being looked at in an inappropriate manner, and inappropriate physical contact.⁴⁴

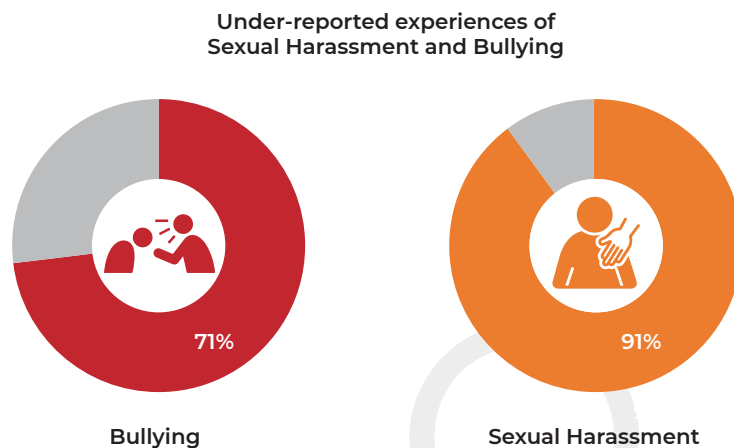
In Singapore, the term ‘sexual harassment’ and ‘bullying’ is not legally defined. Notably, the Ministry of Manpower describes workplace harassment as ‘behaviour that causes or is likely to cause harassment, alarm or distress to another party’, and sexual harassment is cited as an example that may fall within the definition of workplace harassment.



Is Sexual Harassment and Bullying a Problem for Female Lawyers in Singapore?

Yes it is. Between 2017 and 2020, the LSS received 7 reports of workplace sexual harassment through its Members' Assistance & Care Helpline ("MACH").⁴⁵ Participants of the 2019 roundtable sessions also shared instances of bullying or sexually harassment, including (rare) instances where junior lawyers perpetrated such behaviour on more senior lawyers.⁴⁶

Whilst the number of cases reported to the LSS appears small, this must be analysed together with the tendency of victims to hold back from reporting such incidents, and the relatively smaller size of the legal profession in Singapore (5,191 practitioners in 2017, 5,336 practitioners in 2018 and 5,920 in 2019)⁴⁷. In fact, the 2018 IBA survey found that there was far greater under-reporting of bullying and sexual harassment in Singapore, as compared to the global average: 71% of those who experienced bullying and 91% of those who experienced sexual harassment never reported their abuse in Singapore, whereas the global average was 57% and 75% respectively.⁴⁸



The 2018 IBA survey also found that of the female Singapore respondents surveyed, 29% had encountered sexual harassment (the global average being 37%), and 48% had encountered bullying (the global average being 55%). Importantly, 60% of male Singapore respondents had encountered bullying (as compared to the global average of 30%). These figures, taken in the context of general under-reporting, suggest that bullying may be a widespread cultural issue within law firms in Singapore, and that a majority of both male and female lawyers are subject to such behaviour.

The Law Society of England and Wales global survey in 2017/2018 also reflected that participants who were victims of sexual harassment were hesitant to share their experiences on this topic, as they felt it would hinder career progression and make their present situation more challenging.⁴⁹ The same goes for Singapore, with the added exacerbation that the number of lawyers here is comparatively smaller, and word tends to spread quickly across the entire profession.

During the roundtable sessions, it was generally recognised that it would be difficult to speak to a senior member of the law firm about sexual harassment or bullying. Some feared this would negatively impact their own careers, or that they may be labelled as promiscuous or troublesome. It was also raised that some female lawyers in more senior positions may, instead of making a formal complaint, feel comfortable challenging an insulting comment directly, while others may try to deal with the issue in a semi-jocular fashion.⁵⁰ The roundtable feedback also indicated that the more common outcome was that the victim elected to leave the law firm. This, whilst perceived by the victim to be the path of least resistance, is insidious as it breeds a culture of silence around such issues, giving rise to greater under-reporting.

Respondents from the roundtables – both male and female – unanimously considered that anti-bullying and anti-sexual harassment training is important and necessary, especially when focussed on how a person can access the relevant complaints processes, how the persons handling the complaint should act in a sensitive and impartial manner, the consequences of such misbehaviour, and how bystanders who become aware of such issues should react.⁵¹ However, the feedback from the roundtables also indicated that, with the exception of some larger law firms, most Singaporean law firms do not offer such training, even though they may have implemented policies to prevent such behaviour.⁵² This state of affairs places victims of bullying and sexual harassment at a disadvantage.

What is the Cost to the Legal Profession if Nothing Changes?

The under-reporting rate in Singapore is of grave concern.

If workplace bullying or sexual harassment is not systematically addressed, lawyers may become disillusioned about their prospects, fear a negative impact on their career, and ultimately decide it is easiest to leave the legal profession. Law students these days are far more attuned to social justice issues, and may be put off joining legal practice due to the perception that mistreatment is prevalent or routinely covered up.

For the profession, the risk is a loss of public confidence. Recent media reports reveal a preoccupation with lawyers (or former lawyers) whose harassing or inappropriate behaviour has amounted to criminal conduct. To preserve the standing of the profession, steps must be taken to signal to the public that such behaviour will not be tolerated, and if uncovered will be fairly and properly dealt with, with the victim's best interests as a key consideration.

Recommendations

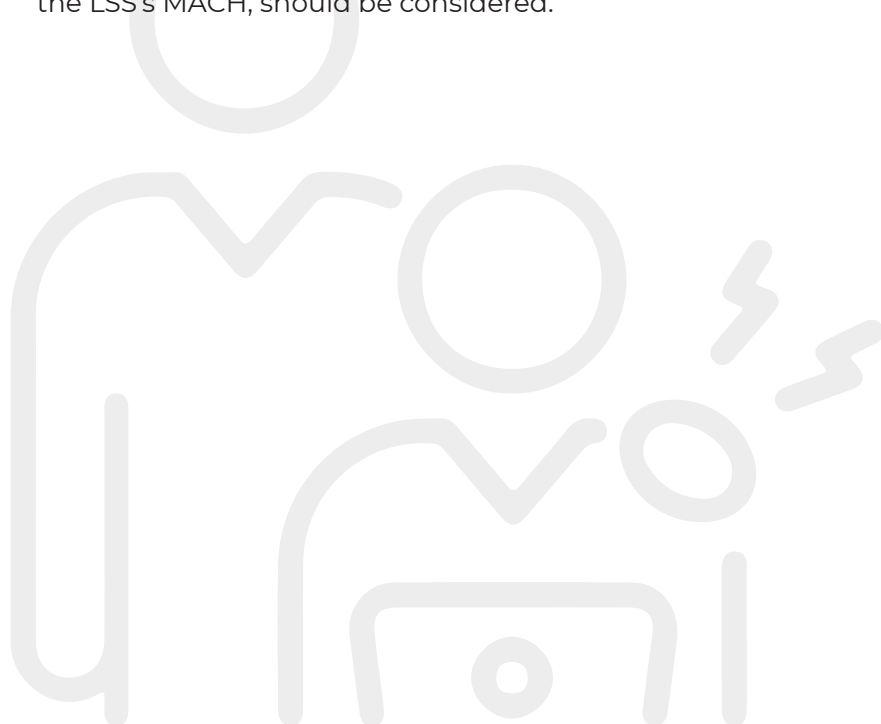
The main difficulty in addressing sexual harassment and bullying arises from the differing reactions towards each factual example of harassment or bullying. Reactions towards comments or actions that may be perceived as insulting, intrusive, or demeaning may differ between individuals depending on their baseline of tolerance and personal perspectives. This may be due to cultural, social and generational divides.⁵³

On 5 June 2020, the LSS launched the Workplace Harassment in the Legal Profession: A Resource Guide for Members (**"the Guide"**).⁵⁴ The Guide for members seeks to address workplace harassment in the legal profession and assists law firms to better understand the scope of workplace harassment, best practices for law firms and guidance for affected persons. It also includes case studies from Australia, Canada and Singapore.



Given the uncertainties of what might amount to sexual harassment and bullying, it would be useful for the LSS to also introduce a basic structure for anti-bullying and anti-harassment training, which law firms could then implement. Such training should cover awareness of what amounts to sexual harassment or bullying, and the avenues of reporting both within and outside of the firm. Bystander training to educate employees on how to intervene and protect other employees from sexual harassment and bullying is also essential, and should be incorporated in the proposed training.

In addition, law firms must look into establishing clear codes of conduct, anti-harassment and anti-bullying policies, and independent grievance procedures. Where some victims do not perceive any internal reporting procedures as 'safe spaces', reporting processes outside of the firms, such as the LSS's MACH, should be considered.



CONCLUSION

It is through the efforts of our predecessors that many female lawyers are, today, empowered to both step up to and create opportunities for ourselves and future generations.

However, it is not enough for just some female lawyers to succeed, while others face systemic gender bias. The real question is whether, as it stands, all female lawyers who want to achieve more in their careers, feel that they can do so without facing insurmountable odds. The survey and roundtable sessions reveal that we have yet to meet this gold standard. In outlining the observations and suggestions in this Report, we hope to move yet one step closer to that gold standard.



¹The Women in Practice survey was open to all members of the legal profession in Singapore from 6 July 2018 through to 30 September 2018. The LSS received responses from 525 women lawyers.

²Women in Practice survey 2018, 17.08% of respondents indicated they had been in practice for 1 year.

³Women in Practice survey 2018, 3.09% of respondents indicated they had been in practice for 8 years and 1.44% of respondents indicated that they had been in practice for 9 years.

⁴Women in Practice survey 2018, approximately 3% of respondents indicated that they had either 13, 14, 15, 16 or 17 years' experience.

⁵Terms of Reference of the Women in Practice Committee can be found at Appendix A.

⁶McKinsey & Company, Delivering through diversity (18 January 2018)
<https://www.mckinsey.com/business-functions/organization/our-insights/delivering-through-diversity>

⁷<https://www.bcg.com/en-us/publications/2018/how-diverse-leadership-teams-boost-innovation.aspx>

⁸It should be said at the outset that none of the observations and recommendations set out in this report detract from the fact that many advances have been made by women lawyers in Singapore over the past decades. However, impediments to women's career progression remain. Likewise, the recommendations in this Report will not be the last word, and the WIP Committee will continue to gather data and seek improvements on an ongoing basis.

⁹Woolworth. R, Great mentors focus on the whole person, not just their career (9 August 2019), Harvard Business Review (<https://hbr.org/2019/08/great-mentors-focus-on-the-whole-person-not-just-their-career>).

¹⁰LSS support schemes include, Relational Mentorship, PracMentor and Mentoring Scheme for Small Firms. Details can be found here:
<https://www.lawsociety.org.sg/For-Lawyers/Services-for-Members/Membership-Benefits/Support-Schemes>.

¹¹Hoey. K, Forget mentoring, sponsorship is what's needed to keep women in Tech (20 December 2018) ForbesWomen (<https://www.forbes.com/sites/kellyhoey/2018/12/20/forget-mentoring-sponsorship-is-whats-needed-to-keep-women-in-tech/#3ab4edb45f4a>).

¹²The Women in Practice survey 2018 – Question 15.

¹³The Women in Practice survey 2018 – Question 20.

¹⁴The Women in Practice survey 2018 – Question 26 – over 90% of respondents answered 'yes' to this question.

¹⁵The Women in Practice survey 2018 – Question 21.

¹⁶Male lawyers' roundtable.

¹⁷Male lawyers' roundtable.

¹⁸Junior, middle, senior and male lawyers' roundtables.

¹⁹Middle category lawyers' roundtable.

²⁰The Women in Practice survey 2018 – Questions 11 and 13.

²¹Beheshti. N, Improve Workplace Culture with a Strong Mentoring Program (23 January 2019) ForbesWomen (<https://www.forbes.com/sites/nazbeheshti/2019/01/23/improve-workplace-culture-with-a-strong-mentoring-program/#6602da0576b5>).

²²Bowling. K, Why female mentorship in the workplace is more important than ever, (3 August 2018) Forbes YEC Women (<https://www.forbes.com/sites/yec/2018/08/03/why-female-mentorship-in-the-workplace-is-more-important-than-ever/#4a27a3307291>).

²³Flexible Work Arrangements – Ministry of Manpower (July 2001)
<https://www.mom.gov.sg/-/media/mom/documents/employment-practices/flexible-work-arrangements.pdf>.

²⁴The Women in Practice 2018 survey – Question 34.

²⁵The Women in Practice 2018 survey – Question 38. Respondents were able to select more than one answer to this question.

²⁶The Women in Practice 2018 survey – Question 39. This question only received 18 responses, while 507 respondents did not provide an answer to this question.

²⁷Admittedly, these responses were collected pre-COVID crisis, where working from home was mandated. It remains to be seen how the change in working arrangements caused by the pandemic has affected this perception, and more broadly, the willingness of law firms to let employees take on flexible work arrangements.

²⁸ This, of course, is a form of unconscious bias.

²⁹ This statistic is reflective of the data that is collected by the Law Society of Singapore during its Practising Certificate Renewal process and is dependent on members self-disclosing their practise area/s.

³⁰ The Law Society of England and Wales, Influencing for impact: The need for gender equality in the legal profession, Women in Leadership in Law Report: Findings from the Women's Roundtables (March 2019).

³¹ The Law Society of England and Wales, 5 Steps to reduce unconscious bias in your workplace (9 April 2018) (<https://www.lawsociety.org.uk/news/blog/5-steps-to-reduce-unconscious-bias-in-your-workplace/>)

³² The Law Society of England and Wales, Influencing for impact: The need for gender equality in the legal profession, Women in Leadership in Law Report: Findings from the Women's Roundtables (March 2019)

³³ In 2020, a total of 2909 members indicated on their practising certificate renewal application that they held the position of law firm Partner, Director, Sole Proprietor or Consultant. 1915 were men and 994 were women. The statistic is based on what the member advised the Law Society of Singapore on their practising certificate renewal application.

³⁴ Male lawyers' roundtable.

³⁵ Male lawyers' roundtable.

³⁶ Middle category lawyers' roundtable.

³⁷ Kay, K and Shipman, C "The Confidence Gap" The Atlantic, May 2014 (accessed here: <https://www.theatlantic.com/magazine/archive/2014/05/the-confidence-gap/359815/>).

³⁸ Solicitors Regulation Authority, Unlocking the Benefits of Diversity, October 2017, pages 11, 33 and 35.

³⁹ The Law Society of England and Wales, Supporting wellbeing in the workplace – Guidance for best practice, October 2019, page 34.

⁴⁰ Of course, equality works both ways, and in the push against unconscious bias, male lawyers should also be given more leeway to care for their children or take on flexible work arrangements as needed.

⁴¹ Report of the New Zealand Law Society Working Group: To enable better reporting, prevention, detection, and support in respect of sexual harassment, bullying, discrimination and other inappropriate workplace behavior within the legal profession at page 130 https://www.lawsociety.org.nz/_data/assets/pdf_file/0007/129922/Report-of-the-NZLS-Working-Group-December-2018.pdf

⁴² Pender, K. Us Too? Bullying and Sexual Harassment in the Legal Profession, IBA 2019.

⁴³ Pender, K. Us Too? Bullying and Sexual Harassment in the Legal Profession, IBA 2019, page 38.

⁴⁴ Pender, K. Us Too? Bullying and Sexual Harassment in the Legal Profession, IBA 2019, page 55.

⁴⁵ The statistic is accurate as at 1 July 2020.

⁴⁶ Male lawyers' roundtable.

⁴⁷ The Law Society of Singapore, Annual Report 2017, page 33; The Law Society of Singapore, Annual Report 2018, page 48.

⁴⁸ Presentation by the International Bar Association, Us Too? Bullying and Sexual Harassment in the Legal Profession, slide 21.

⁴⁹ The Law Society of England and Wales, Influencing for impact: The need for gender equality in the legal profession, Women in Leadership in Law Report: Findings from the Women's Roundtables (March 2019).

⁵⁰ Middle category lawyers' roundtable.

⁵¹ Junior, middle category, and male lawyers' roundtables.

⁵² Junior, middle category, and male lawyers' roundtables.

⁵³ Male lawyers' roundtable.

⁵⁴ Workplace Harassment in the Legal Profession: A resource Guide for Members, The Law Society of Singapore (June 2020) (<https://www.lawsociety.org.sg/wp-content/uploads/2020/06/Workplace-Harassment-in-the-Legal-Profession-Resource-Guide-for-Members-June-2020.pdf>).

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