

WORKING GROUP REPORT: Talent Management for Diversity, Equity and Inclusion Outcomes





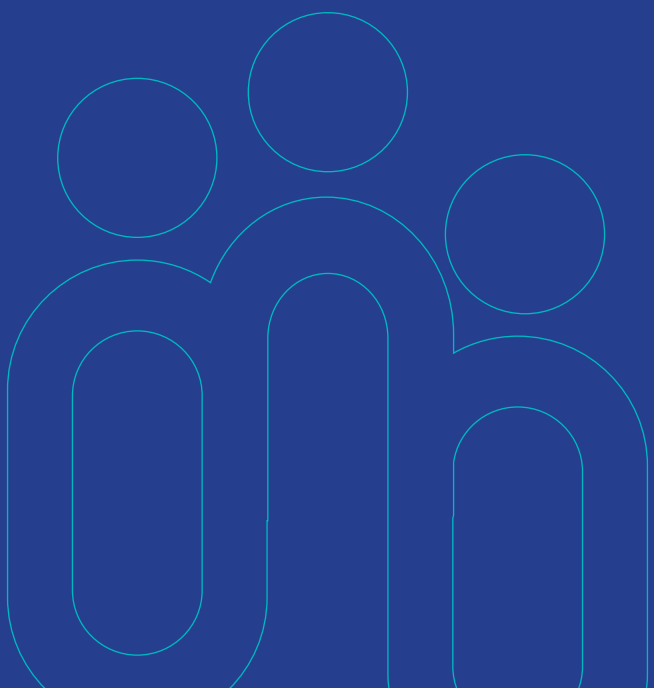
CONTEXT

A key aspect of the South African General Counsel for Diversity and Inclusion (SA GC for D&I) initiative is the creation of working groups to facilitate comprehensive and multi-stakeholder conversations around critical themes linked to diversity, equity and inclusion (DEI) within the South African legal fraternity.

These working groups discuss topics proposed and voted on by members of and partners to the initiative. Each working group is tasked with using the discussions to create an output intended as a public-good resource for those wanting to enhance DEI. This document is such an output and we encourage readers to share it with others in the South African legal fraternity who may benefit from its content.

This particular document is the fruit of the collaborative efforts of the Talent Management for Diversity, Equity and Inclusion Outcomes working group, which started in late 2023 and concluded its work in early 2024. The SA GC for D&I gratefully acknowledges the efforts of all of those who took part in these working group discussions and thanks their organisations for allowing them the time to do so.

The discussions within the working groups adhere to the Chatham House Rule, ensuring the anonymity of individual contributors to the dialogue. For further information or to become part of the SA GC for D&I and its current or future working groups, visit www.sagcdi.co.za.



FIVE KEY DEFINITIONS FOR DEI IN LEGAL TALENT MANAGEMENT

WHAT ARE DEI OUTCOMES?

DEI outcomes are the concrete results obtained through initiatives emphasising diversity, equity and inclusion in an organisation.

These might include a more varied workforce, equitable access to opportunities and resources, and an inclusive work environment in which every individual feels valued and listened to.

For organisations to align on the desired DEI outcomes, it is imperative to agree on the definition of key terminologies that are often used in DEI conversations.

Diversity is the range of different perspectives, ideas and experiences that make up the legal workforce. These perspectives, ideas and experiences help law firms and in-house legal functions enhance creative thinking, innovation and problem-solving, to adapt and grow in a fast-paced world. Differences can be both obvious and hard to see. They can include gender, race, sexual orientation, disability, cultural background, neurology, religion and age.

Equity is about fairness and justice. It is about taking deliberate actions to remove systemic, group and individual barriers and obstacles that hinder opportunities and disrupt well-being. Equity is achieved through the identification and elimination of policies, practices, attitudes and cultural messages that create and reinforce unfair outcomes.

Inclusion embeds a culture where all staff experience a strong sense of belonging and affiliation to their law firm or in-house legal function. This requires a safe, positive and caring environment in which everyone's perspectives, ideas and experiences are understood, embraced and valued. People feel they can relate to a common goal, are fairly treated, can learn and develop without boundaries, and are able to contribute their whole, authentic selves in the workplace.

Diverse talent refers to the wide range of individuals within an organisation, each bringing unique backgrounds, experiences, perspectives, skills and attributes to the teams and organisations they work in.

Box-ticking is a minimum compliance-driven approach to talent management, adhering to the letter – rather than the spirit – of the law. It involves evaluating individuals or situations based solely on specific predefined regulatory/internal obligations instead of creating structures that allow for meaningful impact and results, cultivate a sense of belonging, and engender inclusion.

FIVE NOTABLE CHALLENGES FOR LEGAL TALENT MANAGEMENT

1

Diversity without equity and inclusion: organisations may boast diverse teams, characterised by varied backgrounds, experiences and perspectives, without necessarily facilitating an equitable and inclusive environment. While diversity is an essential first step and a key enabler, it does not automatically ensure equity and inclusion.

2

A box-ticking approach to talent management: shifting away from practices that rely solely on predefined criteria towards a more comprehensive talent development approach is fundamental to effectively manage and harness the potential of diverse employee groups. This endeavour, while rewarding, also presents challenges.

3

Talent competition: South Africa experiences fierce competition both domestically and internationally when it comes to attracting and retaining diverse talent. This is particularly true for sectors where diverse talent is underrepresented. This competition can make the acquisition and retention of highly skilled diverse talents a challenging task. Failure to perform comprehensive talent management may result in candidates being drawn to other local or global opportunities.

4

Absence of a holistic talent management approach: there is a significant need for a holistic approach to talent management that acknowledges individual differences and provides appropriate, personalised support in multiple work aspects throughout the career journey.

5

Restricted provision of enriching experiences: developing approaches tailored to diverse interests and abilities can promote inclusivity and is desirable. However, these strategies can also be challenging and expensive. Thus, firms need to carefully balance pragmatism with internal goals when undertaking such efforts.

A HOLISTIC APPROACH TO TALENT MANAGEMENT FOR DEI TAKES A CAREER-JOURNEY VIEW OF INDIVIDUALS

START



RECRUITMENT

- **Scrutinise the recruitment procedure for potential inherent biases** related to appearance, qualifications, experience, language, accent, geographical location or any other factors. It is crucial to rectify these biases to create a more diverse and inclusive work environment
- **Use predetermined, objective criteria and scoring systems for recruitment**, rather than depending solely on subjective judgement of the interview process. This method minimises personal biases and ensures a more fair selection process
- **Strive for equity during recruitment, ensuring everyone has a fair chance regardless of the resources they had access to in the past.** It goes beyond mere equality (which implies equal opportunities without considering the previous and existing disadvantages some individuals might face) to create a more fair and inclusive hiring process
- **Ensure that job advertisements, or the use of specialist recruiters, do not inadvertently exclude potential candidates.** This includes using inclusive language in job posts and ensuring recruiters are trained in fair hiring practices. It is important for the legal industry to cast a wide net in its search for talent in order to benefit from diverse perspectives and experiences



REAL CHALLENGES TO DEI DURING THE RECRUITMENT STAGE

Employers may exhibit a bias rooted in the perceived prestige associated with a lawyer's career path. For example, lawyers from legal practice may be viewed as having more preferable experience than those who have trained as in-house lawyers. However, it's crucial to understand that a lawyer's career choices do not necessarily reflect their actual skill and proficiency. Overemphasis on organisational prestige may lead to missing out on high-quality candidates, especially among individuals who may have had fewer options available to them.

A HOLISTIC APPROACH TO TALENT MANAGEMENT FOR DEI TAKES A CAREER-JOURNEY VIEW OF INDIVIDUALS



2. ONBOARDING AND INDUCTION

- **Foster a sense of belonging within the organisation and at team level by implementing effective induction and onboarding processes.** For example, additional team-level inductions can complement company-wide induction, providing a more nuanced understanding of team dynamics and expectations and leading to greater belonging
- **Monitor and identify trends in training requirements across different groups of junior staff.** Use this knowledge to tailor the induction and onboarding process to their needs. Candidates from different backgrounds will likely require different types of support. For instance, when considering incorporating mental health and resilience training into onboarding, look for ways in which different cohorts – and different individuals – may need specific types of training
- **Provide junior diverse talent with early, meaningful interaction with senior staff members.** This exposure can promote a sense of inclusion and mentorship and potentially facilitate a more diversified leadership in the future



REAL CHALLENGES TO DEI DURING ONBOARDING

Individuals in any firm will often gravitate towards people who are like them in some way – this includes onboarding junior staff to their preferred practice areas and thus, effectively, preventing others from accessing those areas.

A HOLISTIC APPROACH TO TALENT MANAGEMENT FOR DEI TAKES A CAREER-JOURNEY VIEW OF INDIVIDUALS



3. CAREER DEVELOPMENT

- **There should be an established dialogue to discuss individuals' interests, strengths and areas for development.** This ensures a personalised approach to opportunity allocation and helps talent to make the most of their unique abilities
- **Coaches and mentors are beneficial support systems for junior lawyers and should be leveraged.** Each plays a distinct role in an individual's professional growth. Their influence can extend beyond imparting knowledge and boost the visibility of the junior hires
- **Ensure that diverse talent is given sufficient guidance and feedback to not only fulfil their roles, but to excel in them.** This should encompass constructive feedback, actionable development plans and consistent check-ins on progress
- **Impart training at both the technical (legal skills) and general (business skills) levels,** supplemented by a balance of hard and soft skills such as negotiations, presentation acumen, stress management and more. This holistic approach to training is key to creating well-rounded professionals who can navigate different facets of the legal industry. Note areas where diverse candidates need different support, and be sure to adjust your training programme accordingly



REAL CHALLENGES TO DEI IN CAREER DEVELOPMENT

Some perceptions of acceptable behaviour for lawyers continue to be shaped by stereotypes, notably that lawyers should be assertive, able to take command of a room, and be good at networking and socialising. Lawyers who conform to this expectation may be deemed charismatic, triggering a halo effect that may lead employers to unconsciously infer that they have legal expertise and proficiency, despite these attributes not necessarily being indicative of their actual abilities. This implies a dual responsibility for employers. Firstly, there is a need to better equip introverted or less assertive personalities with the skills to navigate the often assertive legal industry, thereby ensuring their voices are heard and demands are met. Secondly, employer assessments of lawyers should prioritise actual legal skill and expertise over superficial appearances or manners.

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4. PERFORMANCE, GROWTH AND RETENTION

- **Set clear expectations that can be objectively measured and tracked** and provide people with the tools and skills to achieve them
- **Make potential career paths clear and accessible** and ensure there is no exclusion in how they are designed (for example, consider if a certain path may exclude mothers of young children)
- **Make training available and easily accessible** across a broad range of topics
- **Identify and address gaps and development priorities as early as possible**



REAL CHALLENGES TO DEI DURING RETENTION

Legal practitioners may find themselves pigeonholed – confined to specific fields of law that do not fully satisfy their career aspirations. This phenomenon may manifest along racial lines, embedding systemic bias into practice selection. For example, certain areas of practice have historically been primarily provided by white South African men, and may continue to be so unless deliberately addressed. Therefore, it is crucial to offer legal practitioners flexibility, enabling them to broaden their horizons and tap into diverse career opportunities.

ACCOUNTABILITY

Accountability should be an underlying principle that ties together all the different stages of the talent management value chain:

- **Accountability at the senior level** for promoting DEI in the talent management process
- **Accountability at the team level** for cultivating a sense of belonging and driving retention
- **Accountability at the HR level** to meet KPIs related to diverse hiring, retention and promotion
- **Accountability across all employees** to nurture a sense of ownership and belonging and help create a welcoming work environment