South African
General Counsel for
Diversity & Inclusion

Toolkit 3: Understanding and addressing biases

ABOUT THIS TOOLKIT

Biases can have a major influence on diversity and inclusion (DEI) in organisations. In particular, they can play an important role in hiring decisions as well as the way employees interact within a firm and can influence decision making across the job lifecycle (recruitment, performance, promotion) if left unchecked.

In order to create an environment that promotes DEI and that makes people from all different backgrounds, cultures and identities feel included and seen, it is important that people are aware of their biases and that steps are taken to mitigate their negative effects.

As biases are often unconscious, **being informed about them and given the appropriate tools to combat them** is an important activity to promote within a firm. This toolkit is useful for all people at different levels within the firm. Having a good understanding of different bises and hot they can manifest in hiring practices and the workplace

This toolkit covers 5 biases that we consider the most **important to consider when promoting DEI in the legal field.** These are:

1. Conformity bias;
2. The halo and horns effects;
3. The contrast effect;
4. The fundamental attribution error; and
5. Similarity bias.

TYPES OF BIASES AND
HOW TO ADDRESS THEM

CONFORMITY BIAS

Conformity bias is the tendency of people to **behave like the people around them**, as opposed to enforcing their own opinions and trusting their own judgement. This can have detrimental impact on the **incorporation of diverse viewpoints,** as people's diverse opinions and inputs end up not being voiced.

In the legal fraternity where leadership is historically white and male, conformity bias would result in these voices forming the dominant opinion.

This can manifest in:

- **Team meetings** being dominated by one specific point of view as opposed to incorporating different opinions

- **Knowledge sharing** where minorities and underrepresented groups may not feel safe to share their opinions

- **Interviews** where a panel end up having a singular opinion on a candidate

TIPS FOR COMBATTING THIS BIAS

- As far as possible, ensure everyone in the room feels **comfortable to give their opinions.**

- If you expect that some individuals may still feel uncomfortable to share, **speak to them in advance** and integrate their views into the discussions.

- **Ask questions that stimulate conversations** and encourage people to share their opinions.

- Incorporate a **'devil's advocate' role** in each session to create an environment where people are encouraged to challenge the popular opinion.

- In an interview context, interviewers should be encouraged to **immediately document their opinions** on a candidate prior to discussing the candidate with the interviewing panel (which, itself, should be diverse).

TYPES OF BIASES AND
HOW TO ADDRESS THEM

HALO AND HORNS EFFECTS

The **halo effect** is a form of rater bias. This occurs when a employee is highly competent in a single areas and the employee is then assumed to be competent across all areas.

The **horns effect** is the converse of this, where employee incompetence in one areas leads to the assumption that they are incompetent in all areas of work.

This bias can lead a positive or negative first impression to causes people to **perceive all their other behaviours or attributes in the same light.**

This can manifest in:

- **Hiring interviews** if an interviewer perceives a specific aspect of their first impression as positive or negative (for example, accent, disability, race) this can lead to them making blanket assumptions about the candidate.

- **Project assignments** if a specific action of an employee causes a halo or horns effect they may either be staffed on the best projects or alternatively not be given responsibility and growth opportunities.

TIPS FOR COMBATTING THIS BIAS

- Have an **interview assessment list** to prevent fixating on certain aspects of people.

- **Hiring checklists** and interview scripts can help prevent interviewers focusing on positive or negative attributes

- When deciding on which employees to staff on certain projects ensure you have a **comprehensive view of their positive and negative** attributes and behaviours to prevent having a narrow view of their ability.

TYPES OF BIASES AND
HOW TO ADDRESS THEM
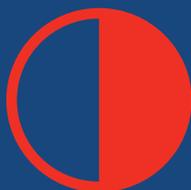
CONTRAST EFFECT

The contrast effect is when **existing or potential employees are compared against each other** based on their subjective characteristics as opposed to looking objectively at a person's qualifications in relation to the skills needed for the job.

For example, **people with disabilities** may find it more difficult to work in a noisy office environment, which may lead to them being perceived as not being a team player.

This can manifest in:

- **Vetting potential employees** by comparing them to other interviewees instead of focusing on individual strengths and capabilities required for the job.

- **Performance reviews** in comparing employees to each other instead of looking at individual strengths and weaknesses relative to their KPIs.

TIPS FOR COMBATTING THIS BIAS

- Ensure the hiring staff has **adequate training on hiring best practices** and understands how they are to review candidates. Ensure adequate time between interviews so you don't fall into a trap of directly comparing candidates.

- **It is important to understand the difference between equity and equality.** Each employee has different needs in order to be able to perform their best in the work in your firm environment. **Individual needs and circumstances need to be considered** when evaluating an employee. This is important to promote diversity and inclusion and create an environment where diverse people feel like they are being treated in an equitable manner.

- It is important to be aware of **different cultural norms** around what is considered polite or acceptable before passing judgement on an action or behaviour.

TYPES OF BIASES AND
HOW TO ADDRESS THEM

THE FUNDAMENTAL ATTRIBUTION ERROR

The fundamental attribution error occurs when **a person's actions are assumed to be emblematic of the type of person** someone is, rather than the social and environmental forces that influence that person. In other words, personal attributions are weighted too heavily - and often at the expense of situational context.

To make a basic example, if an employee is often late for the Monday 07h30 meeting, you may think that they are lazy. In reality this employee might be a single mom taking public transport to drop her kids at school, making their tardiness linked to their context and not who they are as a person.

This can manifest in:

- Deciding on **promotions and raises**

- **Performance reviews** where similarity is rewarded

- The **perception and inclusion** of individuals in aspects of the work environment

TIPS FOR COMBATTING THIS BIAS

- Have **defined KPIs** for assessing performance and deciding on promotions and raises. Focus on objective facts.

- Assess what actions a person has done that has informed your opinion - try and **differentiate actions from situations**

- **360 degree feedback** provides feedback from all levels within the organisation allowing for overall feedback that is less biased, and less susceptible to the fundamental attribution error.

- It's important to practice **self-awareness of your own biases** and try to understand each individual's situation or context. Avoid **double-standards.**

TYPES OF BIASES AND
HOW TO ADDRESS THEM

SIMILARITY BIAS

People have an unconscious tendency to **prefer people who are similar to them** and to view those people in a more positive light. In hiring practices, people are often hired when they are seen as a good 'culture fit', which implies that they fit into the existing culture of the firm or are culturally similar to people within the firm. Without careful attention, this could easily lead to similarity bias.

It's important to differentiate between a **'culture fit' and a 'culture add'.** This helps in promoting and developing diversity and inclusion within the firm. It is often easier to

This manifests in:

- **Hiring choices** where people similar to interviewers are subconsciously preferred.

- Individuals that are more similar to upper management are more likely to be **promoted.**

- **Project assignments** can be based on grouping together similar employees

TIPS FOR COMBATTING THIS BIAS

- Ensure your team has access to **diversity training.**

- **Attract diverse recruits** and avoid using language in job postings that is reinforces biases.

- Have a **diverse interview panel.**

- Have staff lead **diversity conversations.**

- **360 degree feedback** gathers performance review feedback from all different levels and people within the firm. Gathering feedback in this way helps prevent personal bias coming across in feedback

- **Highlight skills and capabilities** when resourcing a project as opposed to looking at personality or culture fit.

USEFUL RESOURCES AND ADDITIONAL INFORMATION

This guidance is based off our consultations with local DEI experts and the EU GCD&I Toolkit.

EU GCD&I Nudge Card for GC Engagement with law firms
This specific toolkit element was used to inform our approach on how to engage with law firms in South Africa

These questions and assessment levels are based off the EU GCD&I Toolkit and The Global Diversity, Equity, and Inclusion Benchmarks.

The right mind-set: Approaching diversity and inclusion in South Africa
This report compiled by Deloitte goes into detail on DEI in South Africa, providing good insight into the direct benefits of DEI for your organization

How to Measure Inclusion in the Workplace
This Harvard Business Review article goes into detail about the different areas of DEI in your organisation, looking at, for example : 'capturing employee perceptions of inclusion', ways to take action, and potential pitfalls.

Information on B-BBEE

The Constitution of the Republic of South Africa

The Employment Equity Act

Additional information on conformity bias
This source provides a more indepth look at conformity bias

Social Influence, Conformity Bias, and the Study of Active Minorities
This academic paper looks at the significance of social influence when it comes to bias and its impact on minorities

SHRM's HR Glossary
This glossary provides definitions of different biases as well as other important terms relating to DEI

A Simple Checklist to Improve Decisions
This is a comprehensive list of questions to ask to help detect bias

Implicit Bias in the Legal Profession
This resource from the IPO provides a detailed look at implicit bias specifically within the legal profession

The Fundamental Attribution Error: What it is & how to avoid it
A more detailed look into the fundamental attribution error from the Harvard Business School

The Similarity Bias
This resource provides an expanded view on the similarity bias

16 Unconscious Bias Examples and How to Avoid Them in the Workplace
This source expands on unconscious bias. It goes into further detail on the different types of biases that exist beyond the ones explored in this toolkit

Additional information on conformity bias
This source provides a more indepth look at conformity bias

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FAQ on LGBTQIA
This list of frequently asked questions was put together by the Department of Justice to communicate helpful definitions and answers questions about LGBTQIA people.

Glossary of Diversity, Inclusion and Belonging (DIB) Terms
This glossary from Harvard Human Resources delves into additional and potentially more niche DEI definitions, but is a good additional resource.

Disability Inclusion
This resource compiled by the CDC provides an indepth look at disability and inclusion and how to define and approach disability when it comes to creating inclusive spaces.