

## ESG

## DIVERSITY AND INCLUSION

# In a shifting world, DEI should be a foundation

Kate Broer and Elliott Portnoy from Dentons explain how law firms can future-proof themselves against increasing client requirements

The legal profession has not historically been known to blaze any trails in diversity, equity and inclusion (DEI). In 2022, most law firms would broadly agree that diverse teams produce better work, but day-to-day realities still vary. Firm leaders need to be bold if they're to translate good intentions into tangible outcomes. They must cement key DEI principles into all aspects of client work and firm operations.

Why should we spend time and money on this? The business case is simple: It is the right thing to do for your workforce, the industry and society at large. Diverse and inclusive companies also outperform their peers financially.

A 2019 McKinsey's report on **How diversity, equity, and inclusion (DE&I) matter** found that companies in the top quartile for gender diversity on executive teams were 25% more likely to have above-average profitability than companies in the fourth quartile – up from 21% in 2017 and 15% in 2014. In the case of ethnic and cultural diversity, our business-case findings are equally compelling: in 2019, top-quartile companies outperformed those in the fourth one by 36 percent in profitability, slightly up from 33% in 2017 and 35% in 2014.”

If that doesn't convince you, consider this: Clients around the world are demanding more from outside counsel in their commitment toward driving diversity, equity and inclusion. They expect us to innovate and find winning solutions for complex problems. A diversity of skillsets, backgrounds and lived experiences in a team provides the varied perspectives and tools required to meet such expectations. Clients want to know our DEI progress and intentions so much that not answering these questions means losing their business.

Large organizations might assume a global presence will automatically “check” the diversity box. But diversity is only one part of the equation; equity and inclusion are key to unlocking the perspectives and talents at every level of a diverse global workforce. It may be a cliché, but the

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metaphor still rings true: If diversity is “inviting people to the party”, inclusion is “asking them to dance”. Creating a culture in which people’s unique differences and perspectives are respected allows everyone to feel valued and contribute in a meaningful way.

Global DEI commitments must be integrated into a firm’s business strategy alongside its other major strategic pillars. DEI leaders must have a seat at the table, participating in board meetings and engaging with the highest governing bodies of a firm. Such a top-down approach tasks every employee with creating an environment which lets all voices be heard. Talking to clients about this is vital. If a firm doesn’t raise the subject, its clients certainly will. Requests are increasing for greater representation of women and other underrepresented groups in leadership and at the partner level. This sea change could potentially reduce barriers to advancement for senior associate and counsel-level individuals, who gain an elevated position through deepening a client relationship.

Whether at a law firm or any other business, change is the only constant. As the world emerges from the pandemic, workers are still pivoting careers at huge rates. Lockdowns changed the workplace permanently. But lingering worker instability in economically precarious countries demands a closer look at the motivators for mass resignations.

In a **McKinsey survey** across multiple industries and firm sizes in five countries, it was evident that employers do not fully understand why employees are leaving. They attributed the phenomenon to transactional factors – inadequate compensation, lack of

development opportunities, not being allowed to work remotely, etc. But unsurprisingly, mass exoduses are rarely rooted in such transactional minutiae. They overlooked the factors actually cited as key drivers by outgoing employees, which were relational aspects: a sense of belonging and purpose, feeling valued by their organization and manager, and inclusion and trust among colleagues. Compound these dynamics with the “emotional tax” on people from marginalized backgrounds, who are on **constant guard against bias at work**, and you have a perfect storm for talent attrition.

Research on associate-level attrition by **Thomson Reuters** found that the associates who are least likely to leave rank their firm culture, the people they work with, and work-life balance more highly than compensation as reasons for staying. Other responses included strong respect for leadership and strategy, as well as feeling included, visible and treated fairly.

Thoughtful and intentional DEI consciousness and action is not a panacea for attrition, but when embodied by leadership and instilled at every level of an organization, it is a powerful retention and recruitment tool. With this, one can create committed and engaged teams, and subsequently see commercial longevity.

Increasing globalization calls for more attention when building relationships with clients in new geographies with varying sensitivities and sociocultural factors. Because of this, developing effective internal DEI policies is a nuanced, complex endeavour. Successful inclusion starts with robust engagement. But mandatory training (unless policy-related) is often seen as an off-the-shelf check-box exercise, one which

doesn’t truly care about long-term behavioural change.

A strategic approach to DEI can be founded on three principles: good governance, accountability and allyship. Policies and processes exist to ensure that as an industry, we are creating career pathways that level the playing field and position our people for success. Those processes must recognize and address inequities and systemic barriers that have impeded progress for historically underrepresented groups.

Expanding the scope of accountability and ownership of the DEI agenda to everyone in a firm begins with senior leadership. Most crucially, it should help form the goals and objectives of every C-level leader. Embedding principles of allyship into firmwide DEI initiatives encourages individual commitment to allyship in the workplace and builds an inclusive culture. Focusing on interactive allyship training will encourage long-lasting behavioural change, educate people with specific actions they can take, and increase day-to-day consciousness about the experiences of others.

As law firm leaders try to navigate economic headwinds, changing client needs, and retention challenges, a strong commitment to DEI with thoughtful execution is an investment with no potential downside. The road will be long, and change is slow. But showing the determination to engage, include and learn from all our people will lay the foundation for long-lasting client relationships amidst constant change.

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