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Culture Change: **Collaboration and Change - Barclays**

By Catherine McGregor



Changing

Barclays legal department has been focused on developing inclusion and diversity both internally and externally for a number of years. The department's journey demonstrates the unique role that in-house counsels have as influencers; both within their own organizations and externally within the wider profession.

Sowing Seeds: Bring Your Whole Self To Work

In recent years much of Barclays legal department's focus on diversity and inclusion has been centered around its 'Bring Your Whole Self To Work' campaign aimed at promoting inclusion globally in the legal team. That campaign was designed to address the otherness and exclusion that anyone can feel in a situation where the dominant culture leads to people hiding fundamental aspects of themselves in the workplace. This focus was also linked to creating real change, moving inclusion and diversity beyond rhetoric. Philip Aiken, Head of Legal for Regulated and Unregulated Lending explains why, for him, this was fundamental. "Bring Your Whole Self To Work' was our first banner when I took on the mantle of Diversity and Inclusion. A key part of it was driving real meaningful change in the department. A lot of people talk about inclusion

and diversity and go to events, and while there can be a lot of passion there, the key is to land initiatives that make actual changes on the ground. It's critical to move away from what I term 'D&I tourism' towards initiatives that really move the needle and deliver real change for the function as a whole."

Tracey Dovaston, Head of Litigation, Investigations and Regulatory Enforcement EME, has seen firsthand the value of diversity. "Legal in Barclays is a very diverse function and we are proud of the statistics. Heading up our Litigation, Investigations and Enforcement team, I've actively encouraged diversity through recruitment and promotion, ensuring that everyone has access to these opportunities."

Tracey has been involved with projects internally with WIN, (the Barclays women's network) and says she feels the most significant element in producing



meaningful change is the symbiosis in approaching diversity both internally and externally.

"We're looking at what we are doing within the department and also looking externally," she says. "Within our suppliers, we're looking for diversity in the lawyers we instruct and ensuring suppliers know this is really important to Barclays."

Philip and Tracey are two of the diversity and inclusion champions from the in-house legal team and Philip is now leading D&I for the legal function globally. "My interest was personal: being a gay man in the financial services industry which has historically been very masculine was something I felt acutely when I started out in my career in 2001, but I feel far less 'other' now than I did then. But if I felt like that, there must be many other people out there who feel the same way. There is a real risk that those people who feel 'other' in any workplace which has a dominant culture have to work even harder to rise to the top of those organizations than those people who find it natural to thrive in that culture and it is this, in my opinion, which drives homogeneity at the top of many organizations in the financial services industry and beyond."

While the needle has moved since he started at the bank, Philip is aware of the need to create

lasting change especially in regards to everyday behaviors which people may not realize are exclusionary. "Even now when I sit in meetings, I will clock the attendees and see if there is only one woman or if the office banter is unintentionally exclusive."

Dynamic Working

Creating the lasting change around culture has been a significant area of focus both for the wider bank and for the legal team in particular. An example of an initiative which has had a wider cultural impact and has also helped to drive inclusion at the bank is the redefinition of flexible working practices as 'dynamic working', which has been adopted across the bank. The legal team was a driving force in its adoption.

'Dynamic working' provides all Barclays colleagues the opportunity to define how one works their life. It is defined as a method of empowering anyone to integrate their professional and personal lives in a way that works for them, to assist them in achieving their ambitions. While flexible working often constitutes or implies a change in working hours (usually a reduction), dynamic working may be just doing the same hours but from a different place. It becomes about the value of outputs, not the where and how. Flexible working can be associated with working mothers and can carry connotations of not working as much or not prioritizing ones' career. By changing the semantics around flexible working patterns, Barclays hopes to push the concept to a broader meaning and audience.

Barclays Law Firm D&I Consortium:

The restructuring and change undertaken over the past few years in the legal team had, at its core, the desire to change culture and behaviors. A key aspect of this was in relation to inclusion and diversity, wider working practices and how services were purchased and from whom.

We asked our lawyers if they were hiring the same individuals all the time. They may be good, but that does mean we will never change the dial if we instruct the same people for years. We made it a requirement for all panel firms to provide us with diverse teams.

While concern with inclusion and diversity has long been a staple of law firm panel reviews and RFPs, there have also been worries that in many cases these requirements have not really had any teeth or resulted in lasting change. To demonstrate that their panel process requirements for inclusion and diversity were more than 'tick the box' exercises for the review process, Barclays introduced the Barclays Panel Law Firm Diversity & Inclusion Consortium. Diversity and Inclusion is now one of 6 pillars in Barclays Expectations of Law Firms.

There are three consortia across (i) UK & EME (Europe and Middle East), (ii) the Americas, and (iii) APAC (Asia Pacific). The purpose of each consortia is to share what members are doing to further the dialogue on diversity & inclusion in their respective organizations and regions, and, more importantly, to work together to deliver initiatives and to effect change which will drive meaningful improvement across diversity agendas for colleagues and also across the financial services legal industry. Bob Hoyt, the Barclays Group General Counsel, has spoken publicly of how important collaboration is to the way he leads and how he feels teams should work. The way the Diversity & Inclusion Consortia are structured similarly shows the importance of using collaboration for meaningful change - the dynamic that drives the initiative.

Each regional consortium can choose different areas of focus. For 2019, the Americas and APAC

D&I Consortia have chosen to focus on the topic of mental health and well-being in the legal profession. The EME D&I Consortium has chosen to focus on the broader area of effecting cultural change.

This collaboration and sharing of best practices established by the consortia is what drives them. As Philip explains, "It's about people thinking beyond the remit of their organizations." The expectation from Barclays of the consortium member law firms is also helping to drive better transparency around inclusion across the industry.

Tracey agrees that the relationships built up with panel firms and then cemented via the consortium is a significant aspect of helping bring about change. "For each firm we work with, we have a relationship team. We expect these relationship teams to be diverse."

Tracey says part of the process is looking critically at hiring practices from both sides. It's true that law firms need to become more diverse and inclusive but clients also have a responsibility to move the needle by really changing who they hire and not default to the same non-diverse teams, while advocating in the abstract for more diversity and inclusion.

Inclusion starts with every hiring decision, as Tracey explains. "We asked our lawyers if they were hiring the same individuals all the time. They may be good, but that does mean we will never change



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No Bar to Inclusion

The team is not just applying a diversity lens to law firms but including barristers (known collectively as The Bar). In the UK and other Commonwealth-based legal systems, there is a division in the bar between solicitors and barristers - barristers will appear in court and be instructed by solicitors. For a US analogy for those readers who may be unfamiliar with this, it’s as if trial lawyers had a different infrastructure to other lawyers. Traditionally, solicitors instructed barristers to appear in court on behalf of their clients but since the introduction of direct access, clients who are qualified solicitors (such as most in-house lawyers) are allowed to instruct barrister sets that offer direct access directly without the involvement of solicitors.

Traditionally the bar has skewed as very white, upper class and male and there has been little wholesale appetite for diversity and inclusion. The structure of the bar makes it challenging for those who do not confirm to the majority. While barristers

are organized into sets or chambers, these do not work in the way traditional law firms do. Rather they are more like a collective of self-employed individuals. Much of the allocation of work is handled by a team of clerks who book work for individual barristers within the set.

To train as a barrister you need to gain a pupillage where you work with a more experienced qualified barrister. These are incredibly competitive and often connections and pedigree count for more than anything. In many of the commercial sets there is still very little diversity.

Examples of sexism and racism are still rife at the bar and while there’s appetite for change from some barristers, many do not see an issue with the status quo.

Interestingly many clients who are very vocal on diversity in law firms have not always joined the dots and extended their efforts to influence barristers as well, but Barclays legal team is doing so. As the Head of Litigation, Investigations and Regulatory Enforcement, Tracey Dovaston is at the forefront of much of the team’s engagement with barristers, and the team is asking sets to provide them with diverse slates. The focus on the bar and making it clear to barristers’ sets that diversity is not just an optional extra has been interesting, Tracey acknowledges. “In the past I have had a discussion with a chamber where I was told, ‘Oh, you don’t want to instruct that female barrister because she is pregnant.’ We have been making our position on diversity clear and I think more chambers are taking it seriously now.”

Only Connect

A significant aspect for many legal teams now in ensuring they have diverse slates is getting to know a wider variety of individuals from across law firms. Getting to know diverse individuals means that, as clients, the legal teams can make a difference to one individual lawyer’s career. Diverse lawyers getting work opens up the possibility of wider

cultural change in their firms or sets as leadership sees that diversity produces results. But getting to know diverse individuals is key: opening channels of communication so clients can ensure that the people they want to get their work is a way to produce tangible change in the profession.

As Tracey explains, “Being introduced to a variety of people across firms so we are definitely instructing the right individuals has been key. By ensuring that our panel firms introduce us to more diverse partners it allows us to give opportunities to individuals who are up and coming in their firms to work on significant cases and rise into more senior positions.” The team is using the same criteria in instructing barristers sets as well. What this has been producing, says Tracey, is a virtuous circle which has been great for morale within the internal legal team. “It’s great for the team to see we have been working both internally and externally on diversity and inclusion and not just talking about it,” she acknowledges.

Diverse teams are now part of the requirements for Barclays’ external advisers. This means looking at the teams that have been provided, and if the team is not diverse Barclays will actively question that and ask for a more diverse team. To assist in this, the legal team has also been holding a series of events where they collaborate with firms and barristers’ chambers to allow Barclays to meet more diverse lawyers and barristers. “Through these we have met many fantastic women and lawyers of diverse backgrounds,” explains Tracey. “It’s now becoming the norm; we don’t have to call up and remind firms and chambers that they need to field a diverse slate. They know that’s what we need and the aim is for it to become completely automatic.”

Collaboration for Change

As Nelson Mandela declared, “Together we are stronger.” In the same way MCCA’s mission statement has highlighted the necessity of col-



laboration in driving true progress and change. #RiseUnited, this year’s theme, reinforces its mission and recognizes that change has to bring together different groups working for a common goal.

The same recognition of the power of creating links and working together to make the change is at the heart of Barclays’ D&I Consortium. “Client Collaboration leads to crucial communication” explains Jane Son, Director in the Banking Legal team at Barclays, based in New York. The Law Firm Consortium is based on the law firm - client relationship being a collaborative partnership. “This partnership extends well beyond quality of service, client feedback forms and billing arrangements. These relationships are human. We are looking to delve into how law firms and their corporate clients are advancing well-being in the profession.”

For initiatives like the D&I consortium to really work is inclusive leadership. As Juliet Bourke and Andrea Espedido of Deloitte write in Harvard Business Review:

“Simply throwing a mix of people together doesn’t guarantee high performance; it requires inclusive leadership – leadership that assures that all team members feel they are treated respectfully

A Word from Paul Hastings

The Mindful Business Charter gives an incredibly important message.

We all work hard; we're in the professional services industry but we can't just carry on the way we have been: it's all about smart working, intelligent working.

It's a no brainer that having a more diverse and inclusive environment is better for business. Part of what's needed to bring that about is ensuring that we are operating in a truly collaborative environment in regards to everything we do. Is the way we work inclusive- is it for the benefit of everyone? When you're sending emails just make a mental note of whether you need to send the same basic stuff or can it wait for Monday or rather than doing a massive drop of documents on a Friday night.

It's smarter working, it's not working less. Barclays have been great with thinking in that way for a number of years with their dynamic working designation."

Arun Birla - chair of the London office of Paul Hastings and vice-chair of the global Tax practice

and fairly, are valued and sense that they belong, and are confident and inspired."

This echoes the findings of MCCA and Russell Reynolds Associates in their research into Inclusive Leadership. The report which was published in 2017 shows that inclusive leaders excel in four key areas. They bring awareness and clarity to problem areas, they practice courageous accountability to help resolve those problems, they empower others, and they foster innovative collaboration to unlock the unique contributions of each person in a group.

Innovative collaboration certainly describes the Barclays D&I Consortium. Corporate legal departments are generally more advanced than many law firms and may be thinking about inclusion and diversity in more global and intersectional ways. Similarly, given many corporates may have a very broad consumer base, some began to think about diversity and inclusion much earlier. Another key factor is that corporates are traditionally much more democratic in how they apply diversity. In many law firms, some benefits are still only available to lawyers or partners.

The traditional headlines about client and law firm interactions over diversity can frequently focus on

where it's not up to par. However, many clients feel a true partnership and encouragement via incentives is more likely to produce lasting results in their suppliers.

It's also true to remember that not all clients are as focused on diversity and inclusion as the popular rhetoric may seem. Law departments may be outliers in their organizations and industries where lack of inclusivity is much worse than in law. Similarly the opaque structures and compensation practices of many in-house legal teams may mask inequalities. This was highlighted by research undertaken by MCCA, The ABA Commission For Women In The Profession and The Center for Work Life Law at UC Hastings. Their research, *You Can't Change What You Can't See*, was based on 2,827 respondents from throughout the legal profession. Within that, some in-house departments were also found to have significant issues with gender pay disparity and career progression.

Clients don't have all the answers and neither do law firms have all the problems.

That's why the partnership and collaboration aspect of the consortium is really helpful for Barclays and its panel law firms and can serve as a role model for other in-house teams and their outside counsel.