



Playing it safe

Why law firms continue to discriminate on the basis of social class

The following is a practitioner report of an academic working paper “Differentiation and discrimination: Understanding social class and social exclusion in the UK’s leading law firms” by Louise Ashley and Laura Empson. Working Paper CPSF-006 2011 (available at - www.cass.city.ac.uk/cpsf)

It may come as no surprise to read that the UK's leading law firms discriminate on the basis of social class when recruiting.

The Milburn Review, published in 2009, confirmed that entry into the professions in the UK had become significantly more difficult for less privileged people during the past thirty years. For example, lawyers born in 1970 grew up in families with an income 65 per cent above the national average, compared to 38 per cent above in 1958.

Most law firms insist that they value diversity. One question then is: *why do leading law firms persist in discriminating on the basis of social class?*

Louise Ashley and Laura Empson, who are based at the Centre for Professional Service Firms at Cass Business School, have addressed this question in their research paper entitled: '*Differentiation and discrimination: Understanding social class and social exclusion in the UK's leading law firms*'. It is based on detailed qualitative research comprising 174 interviews conducted at six leading law firms, all of which are in the top twenty in terms of fee income.

Ashley and Empson argue that, whilst law firms emphasise their need to attract only the brightest and best, the basis on which these attributes are assessed is not necessarily neutral. In particular, the authors emphasise that the type of knowledge work in which major law firms are engaged is inherently ambiguous so that clients may experience difficulty in judging the absolute or relative quality of the advice they are given (until, perhaps, that advice is proven wrong). In this context an “upmarket” image may act as a proxy for quality. In other words, if you look and sound “correct”, at some subconscious level people will assume that the advice you are giving is correct also. As one law firm interviewee explained “image is everything”.

In order to present the appropriate image, most of the leading law firms in the study recruit solely from Oxbridge or other Russell Group universities. This is despite the awareness shown by some interviewees that talent could be found at a wide range of universities – including the new universities. In fact, some professionals interviewed for the study explained that privately educated students from leading universities may at times be less intelligent and ambitious than candidates with less good qualifications who had overcome more barriers during their educational career. Yet leading law firms will still choose them over more able candidates from less prestigious universities. As one interviewee explained:

[we're] recruiting kids in a sense who are already fat. They're not hungry...we should wise up to the fact that actually, if we continue to recruit second rate people from top universities...then we will be a second rate firm within a generation. (Diversity Manager, Law Firm)

Interviewees also claimed that some of the most highly qualified or technically adept students from the leading universities lack sufficient common-sense, commercial nous or practical organisational skills. But still the leading law firms in the study continue to recruit only from leading universities, believing that it is a “safe approach” which delivers a series of “known quantities”.

Graduates from leading universities are also considered more likely to possess the accent, speech, mannerisms and dress that enable leading law firms to present the desired upmarket image and thereby convince their clients of their claim to expertise. Interviewees at each of the case study firms emphasised the necessity to conform to middle-class characteristics and appearance, no matter what your educational or social background may be:

If somebody comes in with a slightly different accent, has clearly had less advantages, do I think that sometimes adversely impacts upon them? I think it does...because you're trying to judge how this individual will come across with clients and how they will fit into the firm. (Graduate Recruitment Partner, Law Firm)

Most interviewees agreed that clients themselves came from a wide variety of backgrounds, so the need for lawyers to appear upmarket is not always about “fitting in” with equals but about meeting (perceived) client expectations of the typical City lawyer.

Ashley and Empson's study found that attitudes towards social class differ to some extent depending on the history of the law firm and its aspirations. For example, one firm which took part in this study was pursuing an active strategy to increase the number of trainees it was recruiting from Oxbridge and a relatively small group of leading Russell Group universities. This is despite the fact that many of the firm's current leaders had not attended these prestigious universities. While a number of interviewees described this objective as a means to enhance the “quality” of their fee-earners, the firm's diversity manager saw this process in somewhat different terms:

...[the partners] are socially out of their depth...so...they...make an effort to lose their regional accent, they aspire to having successful rowing teams, and sailing and rugby and all the rest of it and it's a ridiculous facade. (Diversity Manager, Law Firm)

The diversity manager described this process as relating to social insecurity and an aspiration to compete directly for clients with the most prestigious firms. Indeed clients may compound the situation when they select law firms. A number of studies have suggested that clients within FTSE250 companies increasingly complain that leading law firms are not sufficiently commercial in their approach to work and indeed their fees. However, these high status clients continue to use leading law firms for their most complex work, apparently because this is a low risk strategy. Arguably this underlines the emphasis on image across the sector. Only the most prestigious firms are trusted to perform “elite” tasks partly because this provides a safe and defensible position should things go wrong.

The widely cited business case in favour of diversity suggests that, if leading law firms continue to recruit from a relatively narrow group of universities, they will exclude valuable talent. Yet Ashley and Empson's research suggests that, in the short term, discrimination on the basis of social class can be seen as an entirely rational commercial strategy (though clearly not a desirable social strategy). Even where organisations and individuals wish to change their approach, the risk of one firm acting alone is considered too great. Unless a critical mass of competitor firms commit to change at a similar pace, any single organisation may struggle to implement a different approach to recruitment for fear that their brand will be compromised. This suggests that change, if it happens at all, will not happen quickly.