

## SUBMISSION FROM THE LAW SOCIETY OF SCOTLAND

### **Introduction**

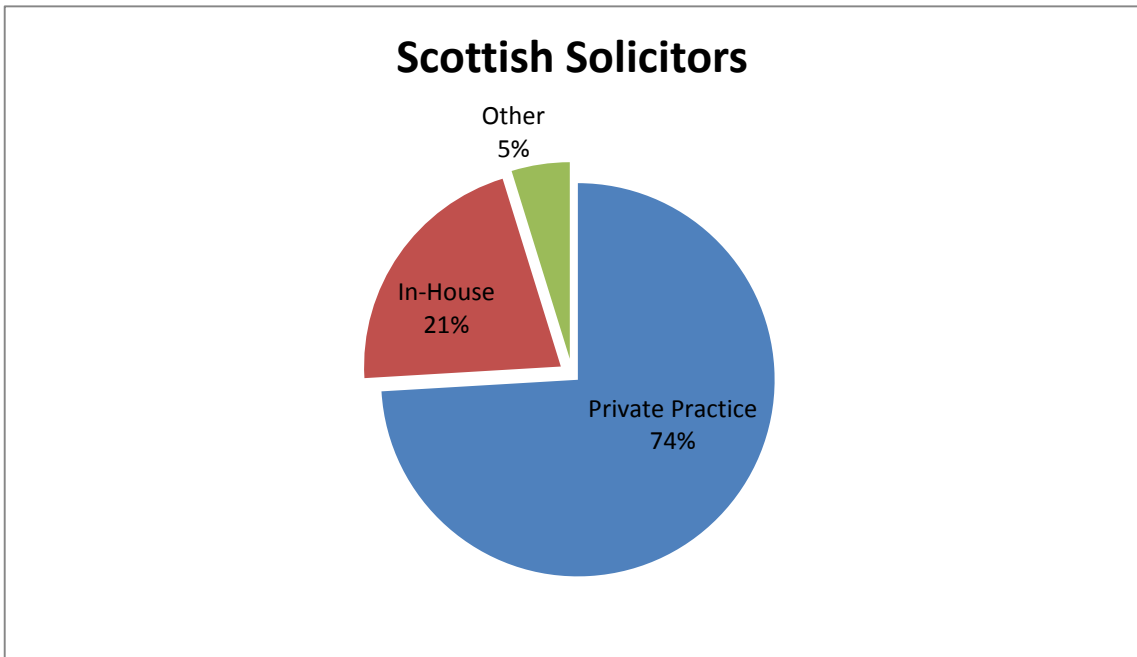
The Law Society of Scotland (the Society) aims to lead and support a successful and respected Scottish legal profession. Not only do we act in the interests of our solicitor members but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes and we welcome the opportunity to contribute to the enquiry and discussions on occupational segregation in the work place.

The Society believes that a fair and representative legal profession is an important element of access to justice in our society, and regards the promotion of equality and diversity as central to the development of a modern profession. In furtherance of this the Society is undertaking a review and collating data to help us recognise, understand and react to any identified imbalances. The Society has successfully delivered two three-year strategies on equality covering a range of work from improvement of the delivery of our own functions through to promoting and supporting change in the profession. A new four-year plan was approved by the Council in November 2011 after detailed work by the Equality and Diversity Committee. This contains various equality outcomes in line with the Equality Act 2010.

On-going work to tackle issues identified includes face to face training to the legal profession, free on line training, both in association with the Equality and Human Rights Commission, and regular guidance on employment and gender sent to all legal firms in Scotland. We strive to ensure that the legal profession is aware of, recognises, and has the tools to address equality imbalances. We are frequently cited as an example of best practice in reviews and publications, although recognise there is still much to do.

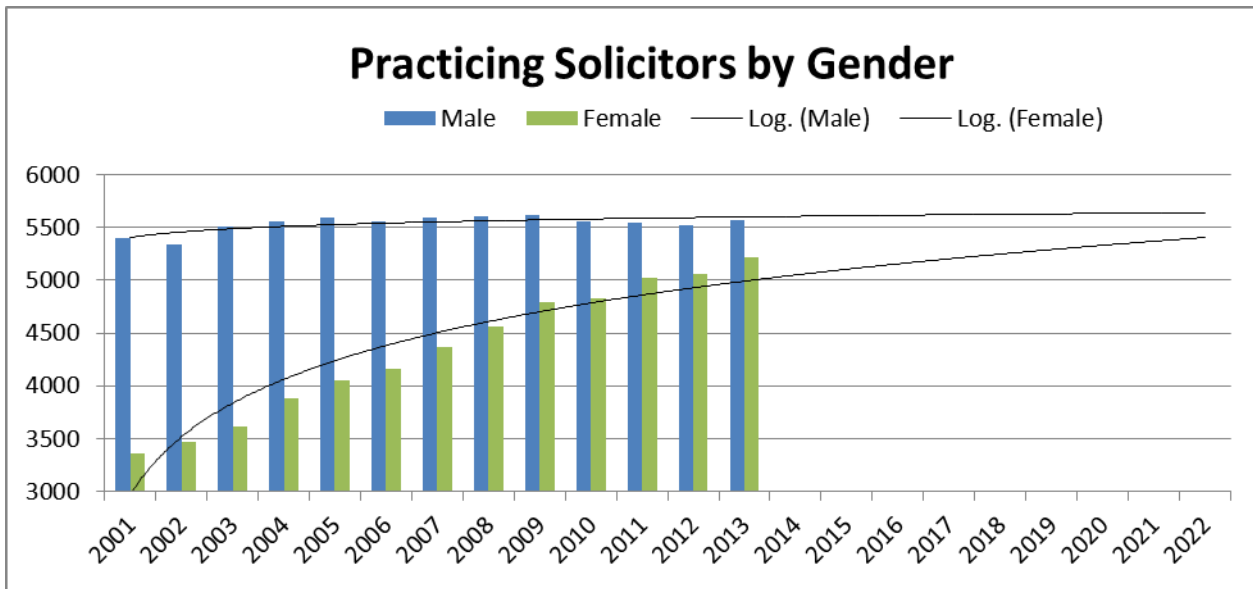
### **Overview of the profession**

There are currently over 10,700 practicing solicitors in Scotland. These individuals practice across a wide variety of sectors and types of organisations. The majority of solicitors are employed in private practice, ranging from sole practitioners to large international firms. However, a significant number of solicitors work in-house with organisations such as government bodies, local authorities, charities, and within industry.

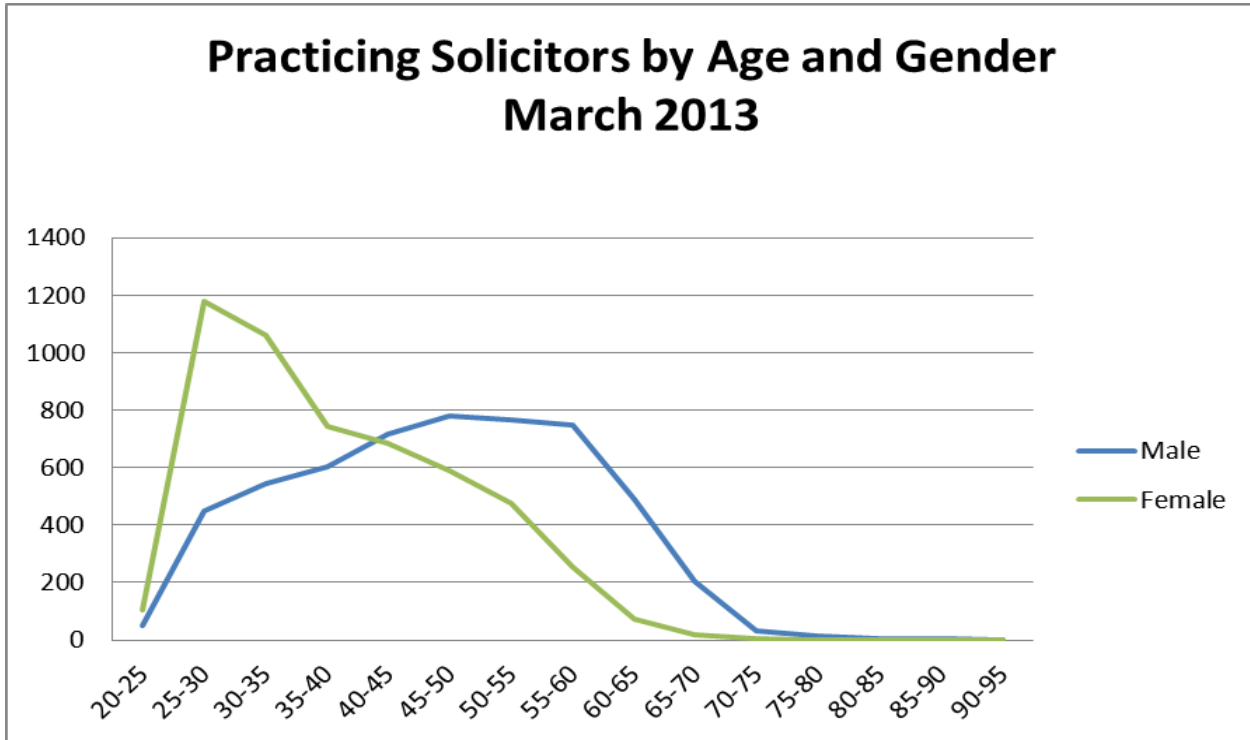


Entry into the profession requires an individual to pass exams in a number of subject areas, complete the Diploma in Legal Practice, and undertake a paid, office-based traineeship supervised by a qualified solicitor. The most common route to qualification is through completion of an LLB in Scots Law, followed by the Diploma and traineeship. However, there is an alternative available route which involves entering into a three-year pre-Diploma training contract with a solicitor and studying for the Society's professional exams, followed by the Diploma and traineeship. The LLB, Diploma, and traineeship can all be taken part-time.

The proportion of practicing solicitors who are women has been continually increasing and now make up around 48% of practicing solicitors.



Women now clearly outnumber men as newly admitted solicitors each year, and make up the majority of the younger members of the profession. There are twice as many female solicitors under 25 as males, and two and a half times as many females between 25 and 30 as males.



### Data on women in Scotland’s solicitor profession

The Society holds a range of up-to-date statistical information on our members, including some data which is relevant for the purposes of analysing the position of women in the profession. Research has also been conducted specifically on women in the profession and equalities issues within the profession, but these studies were last updated in 2005/2006. We are in the process of updating the information held on the demographic profile of the profession, including data on protected characteristics, but current data is not available at this time. This study will also focus on work patterns, using an innovative model looking at location, total hours, distribution of hours, and technology with a specific focus on gender dynamics. A list of our main research, all of which is publicly available on our website, is provided at the end of this document.

### Pre-qualification

From a variety of formal and informal sources, we can confidently state that the female:male split for enrolment onto both the LLB and the Diploma is approximately 60:40, albeit that individual universities may vary slightly from this figure.

The majority of new solicitors and those undertaking traineeships are also female. There are currently 954 trainee solicitors, 375 male and 579 female, consistent with the enrolment figures for the LLB and Diploma.

In a survey of solicitors, 22% indicated that they had experienced discrimination at some point in their career. This figure was higher for females, at 35%. 38% of those indicating that they had experienced discrimination stated that gender discrimination had taken place at the stage of obtaining a traineeship, and 66% during a traineeship.<sup>1</sup>

### **Types of work**

The Society's 2005 study on women in the legal profession showed that women and men are concentrated in different areas of practice. Female respondents formed the majority of those working in the areas of residential conveyancing, civil litigation, family/matrimonial, criminal, and employment law, as well as those working in the Fiscal Service, for local authorities or in-house. Male respondents formed a majority of those working in the areas of commercial property, trust and executry, construction, and corporate law.

The areas of law where women form the majority are those which are perceived by both men and women within the profession as being poorly paid, whereas the areas dominated by men are perceived as well paid.

Although these points are of interest, it is unknown whether there is any causal link between gender and either area of work or pay variance.

### **Hours of work, part-time and flexible working**

The availability of part-time and flexible working arrangements varies across the profession. Part-time work appears to be slightly less common in private practice. Part-time work and other family friendly policies are much more likely to be undertaken by women.<sup>2</sup> Those working less than 40 hours are much more likely to be women, while the vast majority of those working more than 50 hours are men.<sup>3</sup>

---

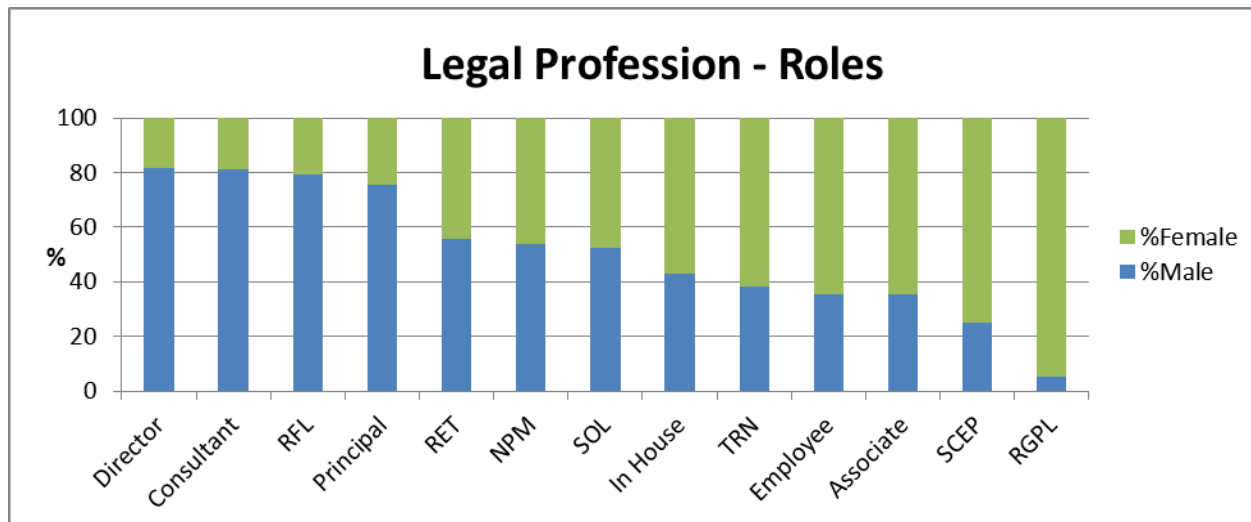
<sup>1</sup> Equality and Diversity in the Legal Profession in Scotland (2006) p 39

<sup>2</sup> Women in the Legal Profession in Scotland (2005) p 52

<sup>3</sup> Equality and Diversity in the Legal Profession in Scotland (2006) p 7

## Career progression

In private practice, career progression traditionally works up through the levels of Assistant, Associate, and Partner. Partners can be either salaried, or equity partners, with equity partners being perceived as the more senior role.



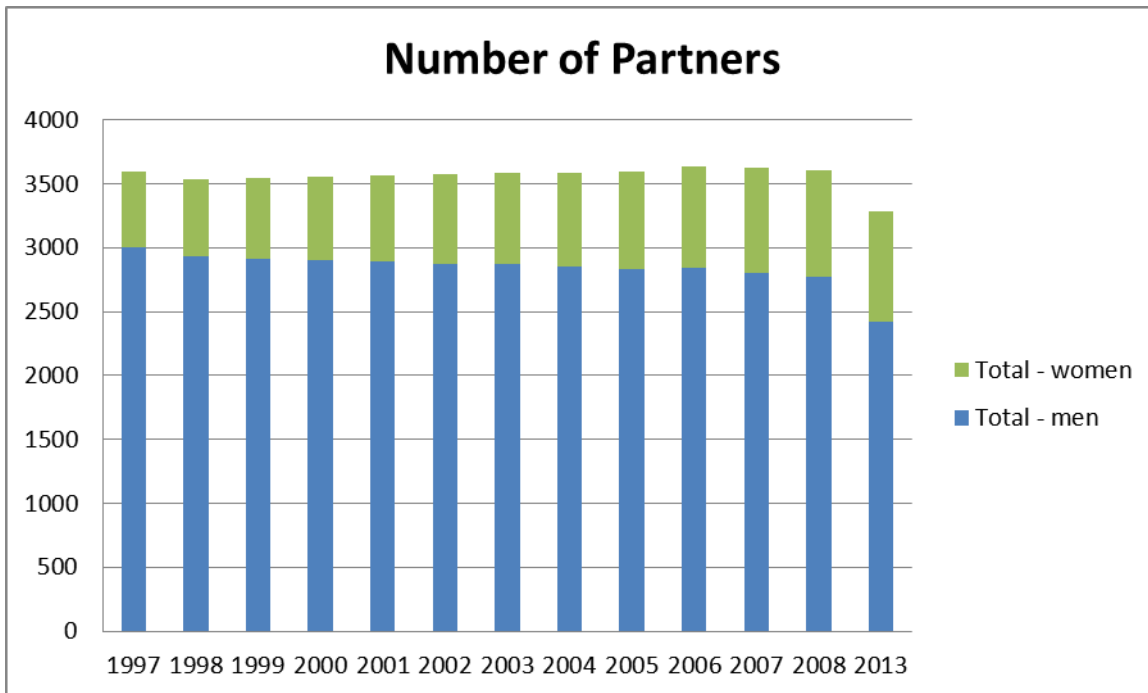
The proportion of women attaining partnership status has been consistently disproportionately low compared to the number of women within the profession, even taking into account level of experience. Within the category of equity partners, there are also clear differences between men and women – 74% of male equity partners have dependants, compared to only 53% of female equity partners.<sup>5</sup>

This study also addressed the issue of whether individuals aspired to the position of partner. In private practice, 61% of men had partnership aspirations, compared to 45% of women. Of those individuals who used to, but no longer did aspire to become a partner, 53% of women indicated that this was due to work-life balance compared to only 7% of men.<sup>6</sup>

<sup>4</sup> RFL – Registered foreign lawyer, RET – Retained on the roll of solicitors, NPM – non-practicing member, SOL – solicitor holding a practicing certificate, TRN – trainee, SCEP – Scottish conveyancing and executry practitioner, RGPL – Registered paralegal.

<sup>5</sup> Women in the Legal Profession in Scotland (2005) p 42

<sup>6</sup> Women in the Legal Profession in Scotland (2005) p 81



On average men became equity partners 2 years earlier than women. However, at earlier stages the gap is smaller – to become associate women and men both take about five years, to then become salaried partners men were 5.9 and women 6.8, for equity partner men were 6.2 and women 8.38. Outside private practice, it appeared that although men achieved their first two promotions more quickly than women, women achieved their third promotion on average about 2 years earlier than men.<sup>7</sup>

59% of solicitors who experienced gender discrimination stated that this occurred when seeking a promotion, with 54% feeling that they had specifically been discriminated against by not being considered for promotion.<sup>8</sup>

There exists a clear pay gap between men and women within the legal profession, both in private practice and other areas. During the first five years following qualification, men and women working full-time in private practice earned, on average, the same. However, for those between 6–10 years post qualification, the gap was £11,000 and between 21–25 years, the gap was still at a level of £28,000 in favour of men.<sup>9</sup>

There are a number of factors to consider when understanding the significance of the pay gap, including the fact that women dominate in areas of law considered to be poorly paid compared to areas dominated by men, and the impact of career breaks and part-time working, both of which are more likely to be taken by women.

<sup>7</sup> Women in the Legal Profession in Scotland (2005) p 74

<sup>8</sup> Equality and Diversity in the Legal Profession in Scotland (2006) p 37-39

<sup>9</sup> Women in the Legal Profession in Scotland (2005) p 61

## **Impact of parenthood**

The impact of parenthood on the career progression of men and women appears to be considerably different, due to the fact that women are more likely to be the primary care-giver within a family. The impact of taking career breaks, undertaking part-time or other flexible working arrangements, and the other responsibilities that fall on a primary care-giver (such as taking time off when a dependant is ill), all impact on career progression.

35% of respondents felt that motherhood was very likely to act as a barrier to partnership, although when restricted to women, 52% held this view. 57% of men and 40% of women felt that motherhood could possibly act as a barrier to partnership. In contrast, over 90% of respondents felt that fatherhood was not at all likely to be a barrier to partnership.<sup>10</sup>

## **Bullying and harassment**

A recent report on bullying and harassment in Scotland's legal profession showed that gender was a significant issue. 78% of those stating they had experienced harassment, and 83% for bullying, were women. 64% of callers to the Law Care helpline for lawyers were women.<sup>11</sup>

## **Judiciary**

Women remain underrepresented in Scotland's judiciary at every level. There is currently only one woman Sheriff Principal in Scotland, and only about 20% of Sheriffs are women, as well as 20% of the Senators of the College of Justice (judges who sit in the Court of Session and the High Court of Justiciary), an increase from 15% in 2010/11.<sup>12</sup> The number of women who apply for positions within the judiciary is low compared to the number of women who would be eligible to hold such positions, and women are underrepresented at both application and appointment stages.<sup>13</sup>

## **Discrimination and employment law**

Although this paper has focused on the position of women in Scotland's solicitor profession, we felt it would be appropriate to provide a brief outline of the existing legislative protection against discrimination.

The Equalities Act 2010 makes it unlawful for employers to discriminate against their employees and prospective employees on the grounds of their sex, race, disability, religion/belief, sexual orientation or age. It also protects against discrimination on the grounds of pregnancy, gender reassignment, marriage or civil partnership. The Act covers discrimination in job adverts, the recruitment process and the terms on which people are employed as well as discrimination during the employment relationship and on its termination. The Act even extends to discrimination which occurs after the employment relationship has ended.

The Society provides guidance to its members on how these provisions operate, and practical measures to prevent discrimination and ensure respect for equality and diversity within the workplace.<sup>14</sup>

---

<sup>10</sup> Women in the Legal Profession in Scotland (2005) p 79

<sup>11</sup> Preventing Bullying and Harassment in the Profession (2011) p 14

<sup>12</sup> Website of the Judiciary of Scotland [www.scotland-judiciary.org.uk](http://www.scotland-judiciary.org.uk) accessed April 2013, Sex and Power 2011 Scotland (2011) p 4

<sup>13</sup> Judicial Appointments Board for Scotland, Diversity Working Group Final Report (2010)

<sup>14</sup> Ensuring Fairness, Creating Opportunities: A practical guide to equality and diversity for Scottish Solicitors (2009)

## **Conclusion**

The position of women in the solicitor profession is complex, and changing. New entrants to the profession are now overwhelmingly female, but representation of women at partner level is still low. There are many contributing factors, and the overall effect of these is difficult to judge. However, there is clearly a need to continue to monitor and address issues surrounding discrimination and differences in the career paths and options of men and women in the profession. Updating our data on the demographics of the profession is an important part of this, and we would be happy to share the results of our upcoming report when available.

Marina Sinclair-Chin  
Solicitor  
Civil Legal Aid Coordinator  
The Law Society of Scotland  
15 April 2013



**Research commissioned and funded by the Law Society of Scotland:**

Date	Research	Response Rate	Researchers
2005	Women in the Profession – quantitative	~2300	Glasgow Caledonian University / Equal Opportunities Commission
2005	Women in the Profession – qualitative follow-up to above	N/A	Law Society – in-house
2007	Profile of the Profession	~3000	Grange Group
2009	Ensuring fairness, creating opportunity – case study based	N/A	Equality Works
2010	Strong Foundations – An updated profile of the profession (joint with Judicial Appointments Board for Scotland)	N/A	MV Consultancy
2011	Bullying and Harassment in the profession – qualitative	N/A	Equality Works
2011	LGBT issues in the profession (inc gender issues)	80	Law Society – in-house
2011	Experiences of ethnic minority background solicitors in Scotland (inc gender issues)	N/A	Blake Stevenson
2013	Update 'Profile of the Profession' as well as focussing on patterns of work (commissioned and in planning stage)	N/A	MVA Consultancy