

# THE BUSINESS CASE FOR DIVERSITY & INCLUSION

IP Inclusive workshop toolkit

29 November 2017



**IP INCLUSIVE**

Working for diversity and inclusion in IP

## The case against

*Is diversity and inclusion (D&I) really worth your business resources? Here are some of the arguments commonly used against it.*

- ✘ This is just a trend; in the future it will become unfashionable again so there is little point devoting current resources to it.
- ✘ People say that diversity is a good thing, but where are the stats? It seems more like political correctness gone mad.
- ✘ Businesses exist to make money. It costs time and money to establish and maintain a D&I agenda. Without an obvious commercial payback, this is not a sensible use of resources.
- ✘ Even if greater diversity has benefits, it is too big and complex an issue for individual businesses to tackle; it should be sorted out by the government and/or the wider society.

## The case against continued...

- ✘ In any case, we are diverse and inclusive enough already; we always recruit on merit.
  - ✘ (“I don't know if any of us are gay, but we have a female partner, and a couple of our attorneys are Asian.”)
- ✘ We might all be socially and culturally similar, but we all bring something different to the table.
- ✘ It is not feasible to further improve diversity in the IP professions:
  - ✘ Patent attorneys, for example, need to be STEM graduates; our diversity stats are an inevitable consequence of university demographics. (And that's not our problem.)
  - ✘ IP professionals need real intellectual rigour to do the job well. Why should we take the risk of recruiting from lower ranking schools and universities?
  - ✘ IP work requires excellent communication skills. Why would we recruit people whose English isn't perfect?

## The case against continued...

- ✘ Diversity will improve over time without our help. There is already more diversity at the point of entry into the IP professions than there is in the upper tiers, so if we let this generation work through, the position will improve.
- ✘ If you aren't content to let it resolve itself over time, then positive steps would need to be taken to improve diversity more quickly, and those just aren't fair:
  - ✘ Bluntly, you either need to get rid of white male employees (surely that is unlawful), or positively discriminate. It is not fair that someone should lose out on a job or a promotion, just because another candidate is a woman or from an ethnic minority. A meritocracy has to be better.

Have you built the business case on why D&I matter?

If not, consider the following links between D&I and improved business performance ...



## The case for

Improving diversity and inclusivity (D&I) can have a positive impact on an organisation's:

- **External relationships**
  - *helping the business to build stronger and more profitable relationships with external stakeholders*
- **Internal performance**
  - *allowing it to outperform competitors through diverse, inclusive teams with a shared purpose and complementary skills*
- **People**
  - *making it easier to recruit, develop and retain talented staff*
- **Risk management and compliance**
  - *reducing exposure to legal, regulatory and reputational risk*

# External relationships

*Improving D&I can help your business to build stronger and more profitable relationships with external stakeholders*

- ✓ An increasingly diverse client base can be better served by a more diverse team of professional advisers, who can better understand them, represent them and communicate with them, and make more credible use of their feedback
  - ✓ Clients from previously side-lined groups (women, LGBT+) are beginning to reward diversity in the suppliers they contract with
  - ✓ IP-rich clients span a range of cultures and backgrounds; they are often innovative or unconventional in their approaches; they are likely to seek out like-minded professional advisers

## External relationships continued...

- ✓ More diverse teams are better placed to understand and respond to trends, opportunities and risks within the commercial landscape
  - ✓ In a globalising and diversifying market place, an organisation will miss out on opportunities if it does not embrace and relate to a more diverse client base, and think more broadly in terms of product and service development
  - ✓ Conversely, its capacity and willingness to engage with new people, new behaviours and new thinking can differentiate it from competitors
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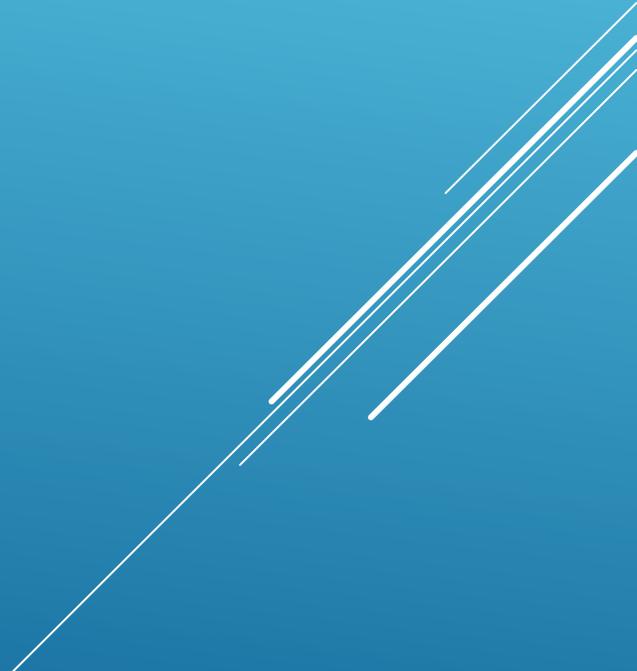
## External relationships continued...

- ✓ Corporate clients frequently require good D&I credentials as a condition for awarding and renewing contracts
    - ✓ *Ask yourself why they're doing that; they presumably recognise the impact of D&I on business performance*
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## External relationships continued...

- ✓ Many potential recruits will also check out D&I credentials before deciding to apply
    - ✓ (including on forums such as “Glassdoor”)
  - ✓ Improving D&I can be generally good for PR
    - ✓ The next generation tends to be more ethically aware and sensitive to D&I issues, and itself more diverse
    - ✓ *Do you want to be the only organisation that isn't doing what it can to improve D&I?*
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## External relationships continued...

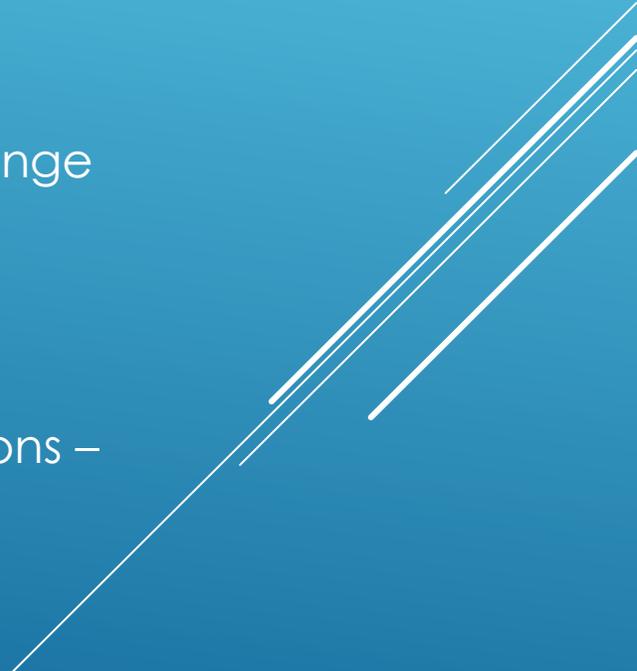
- ✓ Thus, improving D&I can provide access to a wider network of contacts – clients, suppliers and recruits – and facilitate more meaningful relationships with them
  - ✓ And it can “future-proof” the business against changes in the commercial landscape, allowing you to stay ahead of the curve
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- A decorative graphic consisting of several parallel white lines of varying lengths and orientations, located in the bottom right corner of the slide. The lines are set against a solid blue background.

# Internal performance

*With improved D&I, your business is better placed to outperform competitors through diverse, inclusive teams with a shared purpose and complementary skills*

- ✓ Including different perspectives and requirements in business planning and proposals leads to more options, different solutions and new opportunities
- ✓ Broad perspectives, different interpretations and varied trains of thought stimulate strategic thinking
- ✓ Evidence shows that innovation, responsiveness and collaboration increase in diverse, inclusive organisations
- ✓ The ability to embrace and include different capabilities helps organisations develop resilience and respond to changing demands and opportunities
- ✓ Social and cultural diversity facilitates cognitive diversity, and open-mindedness

## Internal performance continued...

- ✓ Well led, diverse and inclusive teams are happier and more productive
  - ✓ Broadening personal perspectives enhances flexibility of thought, reduces confrontation and improves collaboration
  - ✓ Cognitive diversity within teams and organisations leads to better decision making, increased creativity and more constructive challenge
  - ✓ Different complementary skill sets reduce “groupthink” and confirmation bias
  - ✓ Contrasting points of view can help to shape problems – and solutions – differently, stimulating innovative outcomes
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## Internal performance continued...

- ✓ Diverse, inclusive environments are stimulating, creative and fun!
- ✓ Diversity *and* inclusion deliver better results through strong leadership and a shared vision and purpose
- ✓ A culture of support and empowerment enables people with different skills, experience and capabilities to fulfil their full potential; collectively people become more than the sum of their parts
- ✓ Cross-pollination of different ideas and strengths enables personal and organisational development
- ✓ *How do you know the way you have always done it is best if you don't stimulate and explore new and different opportunities?*

# People

*Improving D&I can make it easier to recruit, develop and retain talented staff*

- ✓ It is easier to identify and recruit new talent – both fee earners and support staff – if you widen the pool you're prepared to recruit from
- ✓ This prevents you having to compete for a relatively small group of candidates, with associated salary pressures
- ✓ Easier and more rapid sourcing of new recruits makes it easier for existing staff to focus on their core work
- ✓ Limiting to the more traditional sources (eg Oxbridge or UK) restricts access to potentially suitable candidates
  - ✓ ...and also stifles the benefits of cognitive diversity within the organisation

## People continued...

- ✓ A more diverse workforce tells potential future recruits that your organisation is open-minded and inclusive, helping to differentiate you from other employers and attract and compete for the best candidates
  - ✓ This applies in the (currently fierce) competition for lateral hires as well as early-stage recruits
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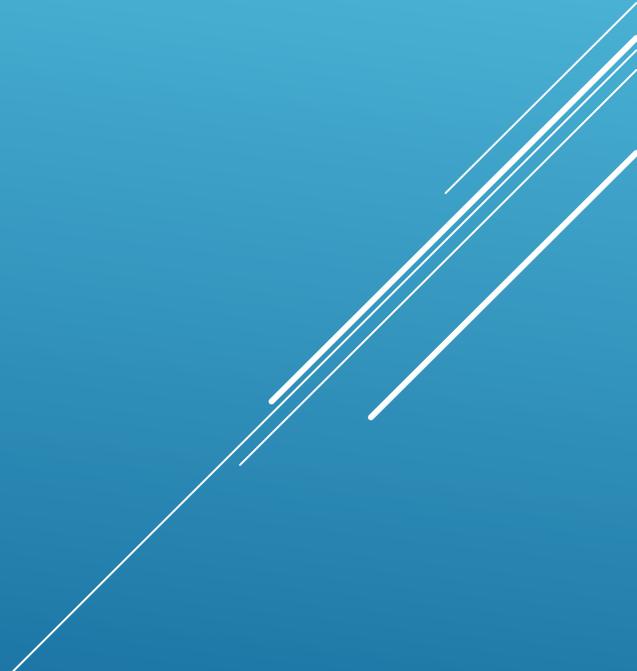
## People continued...

- ✓ In a more diverse working environment, it is easier not only to attract, but also to develop and retain, talented staff
  - ✓ More diverse and inclusive teams tend to be happier, leading to reduced staff turnover (consider the cost and risk for each new hire)
  - ✓ Staff feel more comfortable about developing and broadening their professional skills in an inclusive environment
  - ✓ Happier staff are also generally more efficient:
    - ✓ Unrespected and uncomfortable minorities (e.g. gay employees who are not able to come out in the workplace) are less productive
    - ✓ People who feel included are less likely to look around for alternatives
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## People continued...

- ✓ Recruiting for a wider range of skills, not just the traditional academic achievements, can lead to stronger, more innovative and more robust teams with a range of complementary skills
- ✓ The ability to recruit more easily and from a more diverse pool makes it easier to grow the business, especially in the face of evolving customer bases and market models
- ✓ Risks associated with recruiting from new talent pools can be mitigated through innovative internship and work placement schemes, which can invigorate existing teams and generate good PR
- ✓ Recruiting from wider backgrounds (including, eg, from outside the UK) brings access to wider networks of new clients and recruits
- ✓ Happier staff will be better ambassadors for the organisation

## People continued...

- ✓ Recruiting in a more objective and open-minded way reduces the risk of mistakes, for example overlooking good people or employing the wrong ones
  - ✓ The more diverse the organisation becomes, the lower the risk of unconscious biases, resulting in a “virtuous circle” of meritocracy in recruitment, promotion and professional development decisions
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## People continued...

Perhaps most importantly:

- ✓ Recruiting and developing people in an inclusive manner is *the right thing to do*, and something the organisation will be judged on by all of its stakeholders
- ✓ Treating everyone with dignity and respect, and allowing them to be themselves, is the mark of a civilised and ethically mature society

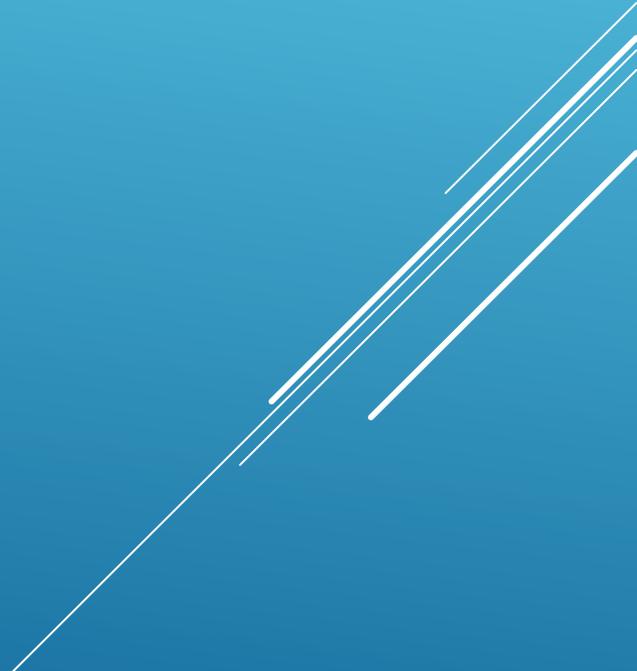
# Risk management and compliance

*A more hands-on approach to D&I can reduce exposure to legal, regulatory and reputational risk*

Effective policies for monitoring and improving D&I:

- ✓ Help the business to meet regulatory reporting requirements
- ✓ Are useful when answering questions posed by current and potential clients, prospective staff, investors and other external stakeholders
- ✓ Help you to keep within the law on issues such as equality, discrimination and harassment
- ✓ Reduce the risk of complaints, allegations, disputes, inquiries, legal challenges and reputational damage
- ✓ Put you in a stronger position to defend yourself if such problems arise

# Financial performance

- ✓ Better client relationships + improved internal performance = higher profits and financially healthier businesses
  - ✓ Studies have demonstrated improvements in business performance when diversity levels are higher (see final slides)
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# The importance of monitoring

*To make the most of these benefits, it's important to obtain at least basic D&I data, document the steps you take to improve them and regularly review and improve your D&I performance*

You then have:

- ✓ A benchmark against which to assess D&I changes and their impact on the business
- ✓ Evidence to share with external stakeholders (eg for client pitches)
- ✓ Evidence in case of legal, regulatory or reputational challenges
- ✓ Positive PR, both internal and external
- ✓ Opportunities to identify problem areas, their effect on the organisation's performance and the means to address them

## SOME USEFUL REFERENCES – THE BENEFITS OF COGNITIVE DIVERSITY

- In a Forbes study of 321 large global enterprises, 85% agreed or strongly agreed that diversity is crucial to fostering innovation in their workforce.
- Lu Hong and Scott Page showed that groups of diverse problem solvers can outperform groups of high-ability problem solvers.
- According to research at Harvard Business School, multicultural networks promote creativity.
- An experiment by Massachusetts-based Tufts University demonstrated that diverse groups perform better than homogeneous teams, by deploying 200 people in mock juries: the mixed juries all performed better than those comprising only white or only black jurors. “Groupthink” may lead to a cohesive team, but one that will happily agree on the same costly mistake.



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## SOME USEFUL REFERENCES – THE IMPACT OF D&I ON BUSINESS PERFORMANCE

- A 2015 McKinsey report, “Diversity Matters”, examined 366 public companies across a range of industries in Canada, Latin America, the United Kingdom and the United States, and found that:
  - Companies in the top quartile for gender diversity are 15% more likely to have financial returns above their respective national industry medians.
  - Companies in the top quartile for racial and ethnic diversity are 35% more likely to have financial returns above those medians.
  - Companies in the bottom quartile both for gender and for ethnicity and race are statistically less likely to achieve above-average financial returns (in other words, bottom-quartile companies are lagging rather than merely not leading).
  - In UK companies, for every 10% increase in gender diversity on the senior executive team, earnings before interest and taxes rose by 3.5%.



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## SOME USEFUL REFERENCES – THE IMPACT OF D&I ON BUSINESS PERFORMANCE CONTINUED...

- Quantopian found that women-led companies in the Fortune 1000 performed three times better than the S&P 500 companies run predominantly by men between 2002 and 2014.
- Research by the New York-based Center for Talent Innovation (CTI), involving more than 40 case studies and 1,800 employee surveys, looked at what it termed “two-dimensional diversity”, namely “inherent diversity” – such as gender and race – combined with “acquired diversity” – such as global experience and language skills. It found that publicly traded companies with two-dimensional diversity were 45% more likely than those without to have expanded market share in the past year, and 70% more likely to have captured a new market.



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