



IP INCLUSIVE

Working for diversity and inclusion in IP

EDI data gathering: DRAFT template survey

Purpose

This template is intended to form part of an EDI data gathering toolkit provided by IP Inclusive in association with CIPA, CITMA, the IP Federation, the UK Intellectual Property Office and IPReg. It is designed for use by signatories to the IP Inclusive EDI Charter¹ and other IP sector employers, in particular private practices.

The idea is that it should provide a voluntary “standard” for organisations across the sector, making it easier to benchmark data and establish its credibility to external parties such as clients. We hope that ultimately the template can be endorsed by relevant membership bodies and regulators. This initial draft is, however, provided by IP Inclusive as a starting point for gathering user input; it does not yet carry official endorsement from others.

Design

The template is constructed in two parts:

- I. A “basic level” survey that we hope all EDI data gatherers in the sector can adopt.
- II. Suggested supplementary questions that some data gatherers might choose to include in their surveys, to suit their particular circumstances and purposes.

Compliance with the endorsed standard would not require use of the supplementary questions. A user would, however, be free to include its own additional questions alongside those in Part I.

Provenance

The template is based on previous IP Inclusive surveys, IPReg’s 2021 diversity survey², the SRA’s 2023 Diversity Questionnaire³ and the current Civil Service standard (which follows guidance from the Office for National Statistics (ONS)).

It majors on the so-called “protected characteristics” in the UK’s Equalities Act 2010⁴. It is therefore UK-focused and we appreciate this may not totally align with overseas clients’ interests.

¹ See <https://ipinclusive.org.uk/about/our-charter/>

² See <https://ipreg.org.uk/about-us/equality-diversity-and-inclusion/ipreg-diversity-survey-2021> (note this is available only to registered professionals) and <https://ipreg.org.uk/sites/default/files/IPREG%20Diversity%20Survey.pdf>

³ See <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/your-data/>

⁴ See <https://www.legislation.gov.uk/ukpga/2010/15/contents>

Nevertheless, framing EDI surveys around these criteria has a sound basis in law and also assists compliance with relevant UK laws and regulatory requirements.

The template also includes questions (for example about social mobility) that are not covered by the Equalities Act 2010, and again may be less relevant to overseas clients, but that we nevertheless believe are important to the IP sector, its clients and its regulators as well as its ability to recruit talented new professionals and grow healthy businesses.

Cautions

This template will be accompanied by guidance notes and/or links to useful guidance elsewhere. Users will be urged to seek independent legal advice on their specific circumstances before embarking on an internal survey, to ensure compliance with relevant data protection and employment laws. However, we believe the template should provide some comfort, as a profession-wide standard that mirrors those used by authorities outside the patent and trade mark sector.

We recommend that users take particular care when surveying a smaller workforce, and/or when designing questions that allow the resultant data to be “cut” (for example according to role, technical specialism, office location or seniority) in such a way as to compromise anonymity. Data from a smaller workforce will also have lower statistical significance and may in any case be less likely to be required by regulators and clients. We hope to provide more guidance on this to accompany the template and would welcome your thoughts.

Part I: Basic survey

1 Gender

Proposed question:

How do you describe your gender identity? [Multiple choice]

- Female
- Intersex
- Male
- Non-binary and/or gender-fluid
- I prefer not to say
- None of these; I prefer to describe my gender identity as [text box]

Notes

Not everyone agrees that gender is a non-binary construct or that people should have the right to self-determine. At IP Inclusive we do. Users may, however, want to tailor this question to suit the culture of their own organisation and to ensure that safety, tolerance and inclusion are maintained for all participants.

At the moment external requirements are most likely to relate to the more traditional male/female divide. The SRA's 2023 Diversity Questionnaire only mentions female, male and "other preferred description". The Civil Service standard gives the response options "man", "woman" and "prefer to self-describe".

2 Age

Proposed question:

What age group are you in? [Multiple choice]

- 16-20
- 21-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65+
- I prefer not to say

Notes

We have included a question on age primarily because it is a “protected characteristic” under the Equality Act 2010.

3 Ethnicity

Proposed question:

Which of the following best describes your ethnic group or background? [Multiple choice]

Asian / Asian British

- Bangladeshi
- Chinese
- Indian
- Japanese
- Pakistani
- Any other Asian or Asian British background

Black / African / Caribbean / Black British

- African
- Caribbean
- Any other Black background

Mixed / Multiple ethnic group

- White and Asian
- White and Black African
- White and Black Caribbean
- Any other mixed or multiple ethnic background

White

- British / English / Northern Irish / Scottish / Welsh
- Irish
- Other European
- Gypsy or Irish Traveller
- Roma
- Any other White background

Other ethnic group / background

- Arab
- Hispanic or Latin
- Any other ethnic group or background

Other response options

- I prefer not to say
- None of these; I prefer to describe my ethnicity as [text box]

Notes

These categories are taken from the SRA’s 2023 Diversity Questionnaire, supplemented a little based on the patent and trade mark sector’s workforce (for example with the addition of “Japanese” and of “other European”). Users could be encouraged to tailor the categories if necessary to suit their own workforce, although by adding to rather than reducing the above list.

The SRA's categories in turn align with ONS guidelines based on the 2021 census⁵. These provide three different ethnic group classification systems of decreasing granularity, the third being limited to the five sub-headings above. It may be more appropriate for our template to take that less granular approach (as is used in the Civil Service standard), although that would leave us with less nuanced data and also risk more survey participants feeling excluded.

⁵ See <https://www.ons.gov.uk/census/census2021dictionary/variablesbytopic/ethnicgroupnationalidentitylanguageandreligion/variables/census2021/ethnicgroup/classifications>

4 Religion / faith / belief

Proposed question:

How do you describe your religion, faith or belief? [Multiple choice]

- I don't have one
- Atheism
- Buddhism
- Christianity (including Church of England, Catholic, Methodist, Protestant and all other Christian denominations)
- Hinduism
- Islam
- Judaism
- Quakerism
- Sikhism
- I'm unsure or questioning
- I prefer not to say
- None of these; I prefer to describe my religion/faith/belief as [text box]

Notes

These categories are based on those in the Civil Service standard and the SRA's 2023 Diversity Questionnaire, supplemented based on previous IP Inclusive and IPReg surveys and input from the IP Inclusive community.

5 Sexual orientation

Proposed question:

How do you describe your sexual orientation? [Multiple choice]

- Asexual
- Bisexual
- Heterosexual
- Homosexual (gay or lesbian)
- Attraction beyond gender or pansexual
- Unsure/questioning
- I prefer not to say
- None of these; I prefer to describe my sexual orientation as [text box]

Notes

In the SRA's 2023 Diversity Questionnaire, the response options here are "bi", "gay", "heterosexual" and "other preferred description". We favour offering more options and will continue to seek input from our IP Out community on this issue.

6 Disabilities and neurodivergence

Proposed question:

Do you consider yourself to have a disability as defined in the Equality Act 2010?

[Multiple choice]

- No
- Yes
- I'm not sure
- I prefer not to say

Notes

This question should be accompanied by the following notes, ideally in the introduction to, or as part of, the question itself:

The Equality Act 2010⁶ defines a disabled person as someone who has “a physical or mental impairment” that “has a substantial and long-term adverse effect on [their] ability to carry out normal day-to-day activities.” If you have a condition that fits this definition, please tick “yes” even if you do not feel you are limited by the condition.

⁶ See <https://www.legislation.gov.uk/ukpga/2010/15/contents>

7 Caring responsibilities

Proposed question:

Which if any of these caring responsibilities do you have (please select as many as applicable)? [Check-box]

- None
- Primary or joint primary carer for a child/children under 18
- Primary or joint primary carer for a child/children under 18 requiring additional support
- Primary or joint primary carer for an adult/adults aged 18-65 requiring additional support
- Primary or joint primary carer for an adult over 65
- I prefer not to say
- Other caring responsibility(ies) (please tell us more if you feel able) [text box]

Notes

Being a carer is not a protected characteristic under the Equality Act 2010. However, having information about our profession's ability to accommodate workers in this position could be important for evaluating its accessibility and inclusivity. Moreover, there can in practice be links between caring roles and protected characteristics such as gender, thus impacting on the profession's overall diversity.

This question is based on the carers' question in IPReg's 2021 diversity survey and is similar to questions included in previous IP Inclusive surveys.

The SRA's 2023 Diversity Questionnaire asks two questions: "Are you a primary carer for a child or children under 18?" and "Do you look after or care for someone with long term physical or mental ill health caused by disability or age (not in a paid capacity)?" For the latter, the response options include:

- Yes, 1 - 19 hours a week
- Yes, 20 - 49 hours a week
- Yes, 50 or more hours a week

The Civil Service standard does not include questions on caring responsibilities.

8 Social mobility and access

Proposed question 1:

What was the occupation of your main (or highest income) household earner when you were about 14? [Multiple choice]

- *Modern professional and traditional professional occupations such as:* teacher, nurse, physiotherapist, social worker, musician, police officer (sergeant or above), software designer, accountant, solicitor, medical practitioner, scientist, civil / mechanical engineer.
- *Senior, middle or junior managers or administrators such as:* finance manager, chief executive, large business owner, office manager, retail manager, bank manager, restaurant manager, warehouse manager.
- *Clerical and intermediate occupations such as:* secretary, personal assistant, call centre agent, clerical worker, nursery nurse.
- *Technical and craft occupations such as:* motor mechanic, plumber, printer, electrician, gardener, train driver.
- *Routine, semi-routine manual and service occupations such as:* postal worker, machine operative, security guard, caretaker, farm worker, catering assistant, sales assistant, HGV driver, cleaner, porter, packer, labourer, waiter/waitress, bar staff.
- *Long-term unemployed (claimed Jobseeker's Allowance or earlier unemployment benefit for more than a year).*
- *Small business owners who employed fewer than 25 people such as:* corner shop owners, small plumbing companies, retail shop owner, single restaurant or cafe owner, taxi owner, garage owner.
- Retired
- I don't know
- I prefer not to say
- Other (please provide more information if you can) [text box]

Proposed question 2:

Which type of school did you attend for the most time between the ages of 11 and 16?

[Multiple choice]

- A state-run or state-funded school which was selective on academic, faith or other grounds
- A non-selective state-run or state-funded school
- An independent or fee-paying school, where I received a means-tested bursary covering 90% or more of the total cost of attending throughout my time there
- An independent or fee-paying school where I received either no bursary or a bursary covering less than 90% of the cost of attending
- A school outside the UK
- I don't know
- I prefer not to say
- Other (please provide more information if you can) [text box]

Proposed question 3:

From what type of educational establishment did you obtain your highest academic qualification? [Multiple choice]

- School or sixth form college
- College of further education
- Polytechnic
- University
- Law and/or business school
- Specialist institute (eg for the creative arts)
- Not applicable
- I prefer not to say
- Other (please provide more information if you can) [text box]

Notes

There are no provisions in the Equality Act 2010 that relate specifically to social mobility. Nevertheless, it is both responsible and sensible for our profession to monitor its ability to recruit from a range of socioeconomic backgrounds and to provide fair access. We have therefore included a number of questions that could provide useful information for the UK's patent and trade mark professions, whether or not required by clients or employment law. *There is still a debate to be had about which of these we all try to include as standard, and which are optional extras (see Part II).*

Questions 1 and 2 above are based on those recommended by the Social Mobility Commission (SMC) as good indicators of socioeconomic diversity in the UK⁷. They are mirrored in the SRA's 2023

⁷ See <https://socialmobilityworks.org/toolkit/measurement/>

Diversity Questionnaire and the Civil Service standard; our versions are closer to the SRA and Civil Service ones than the SMC's published template, but only in minor details. A version of Question 2 was also included in IPReg's 2021 diversity survey.

Versions of Question 3 were included in IPReg's 2021 survey and IP Inclusive's 2020 survey. We have included it here because we feel it provides useful benchmarking information for evaluating the accessibility of the patent and trade mark professions.

9 Data for CIPA, CITMA, The IP Federation and IPReg

The template will also include questions that allow data to be “cut” for membership of relevant representative bodies, for registered patent and trade mark attorneys, and/or for particular working environments, roles or career levels. This will facilitate benchmarking of individual organisations’ data against that gathered across the wider sector.

Part II: Supplementary questions

S1 Gender reassignment

Proposed question:

Is your gender identity the same as the sex you were registered with at birth? [Multiple choice]

- No
- Yes
- I prefer not to say
- It's more complicated than that; the actual position is that [text box]

Notes

IPReg's 2021 survey included this question, as did IP Inclusive's previous surveys. It is also included in the SRA's 2023 Diversity Questionnaire. "Gender reassignment" is moreover a protected characteristic under the Equality Act 2010. Thus, despite the misgivings some people have about gender self-determination (see Question 1 in Part I above), we suggest this question could be included in even a basic-level survey.

S2 Preferred pronouns

Proposed question:

What are your preferred pronouns? [Check-box]

- He/him/his
- She/her/hers
- They/their/theirs
- I prefer not to say
- None of these; my preferred pronouns are [text box]

Notes

This question is unlikely to be relevant for the purposes of gathering externally-required data, but may be useful for internal purposes, to demonstrate that an organisation is listening to and respecting its team members' preferences. Again, though, see the notes to Question 1 in the basic survey.

The response options should be check-box, not multiple choice, because some people are comfortable with more than one set of pronouns.

S3 Disabilities and neurodivergence

Proposed question:

Are your day-to-day activities limited by a health problem or disability that has lasted, or is expected to last, for at least twelve months? [Multiple choice]

- Yes, limited a lot
- Yes, limited a little
- No
- I'm not sure
- I prefer not to say

Notes

This question is included in the SRA's 2023 Diversity Questionnaire. It goes beyond the "protected characteristics" defined in the Equalities Act 2010 and looks at the practical effects of a "disability" in the workplace. We believe it could provide valuable information about how our sector accommodates people who need additional support.

S4 Social mobility

Proposed question 1:

If you went to school in the UK and finished school after 1980, were you eligible for free school meals at any point during your school years? [Multiple choice]

- No
- Yes
- Not applicable (I finished school before 1980 or went to school overseas)
- I'm not sure
- I prefer not to say

Notes

This is one of the three "key" questions recommended by the Social Mobility Commission (SMC)⁷, cited as an easily-understood "measure of extreme economic disadvantage". It was included in

IPReg’s 2021 survey and previous IP Inclusive surveys, which could provide useful benchmarks in the short-term at least. However, responses to the IP Inclusive surveys suggested that it is becoming less useful with time as the availability of free school meals changes with the political and economic climate as well as with geographical location. It is not used in the SRA’s 2023 Diversity Questionnaire or the Civil Service standard.

Proposed question 2:

What is the highest level of academic qualification achieved by at least one of your parent(s) or guardian(s) by the time you were 18? [Multiple choice]

- Degree level qualification or higher
- Qualification below degree level (eg GCSE, O-level, A-level, Scottish Highers, International Baccalaureate or the equivalent in another country)
- No formal qualifications
- I’m not sure
- I prefer not to say
- Other (please provide more information if you can) [text box]

Notes

This question was included in IPReg’s 2021 diversity survey and the 2020 IP Inclusive one. A simpler version appears in the SRA’s 2023 Diversity Questionnaire and follows the SMC recommendations: “Did either of your parents attend university and gain a degree (eg BA/BSc or equivalent) by the time you were 18?”, to which the response options include “No, neither of my parents attended university” and “Yes, one or both of my parents attended university”. There is no equivalent in the Civil Service standard.

Note that to interpret data from this question meaningfully, you probably also need to determine the level of qualification of the respondent. The SMC recommends that the question only be asked of graduates.

Proposed question 3:

If you went to university, were you part of the first generation of your family to do so?

[Multiple choice]

- Not applicable; I didn't go to university
- No
- Yes
- I'm not sure
- I prefer not to say

Notes

This question was included in IPReg's 2021 diversity survey and previous IP Inclusive surveys, but is not in the SRA's 2023 Diversity Questionnaire, the Civil Service standard or the SMC suggestions.

There will be overlap between this and Proposed Question 2 for at least some IP professionals, making it important for the sector to agree a unified approach to allow sensible benchmarking.

Proposed question 4:

If you have a degree or higher academic qualification, which of the following route(s) did you obtain it through (please select as many as applicable)? [Check-box]

- Not applicable; I don't have a degree or higher academic qualification
- A degree apprenticeship
- A remote access study course (eg Open University)
- Oxford or Cambridge University
- A "Russell Group" university other than Oxford or Cambridge
- A university that is not part of the Russell Group
- An academic institution outside the UK
- I prefer not to say
- Other (please provide more information if you can) [text box]

Notes

This is based on a question included in IP Inclusive's 2020 survey. We believe it yields information relevant to the profession's accessibility, and it is particularly useful to our Careers in Ideas outreach initiative⁸ in establishing the institutions from which would-be recruits are for whatever reason not finding their way into IP careers (and where we can therefore target our awareness-raising

⁸ See <https://ipinclusive.org.uk/careers-in-ideas/>

activities). It is not included in the SRA’s 2023 Diversity Questionnaire or the Civil Service standard; nor was it used in IPReg’s 2021 survey.

S5 Questions relevant to inclusivity in the workplace

In addition to questions that provide a quantitative “snapshot” of diversity levels, an EDI survey can also usefully include questions that offer a more qualitative feel for people’s experiences in the workplace, for example how “out” they feel able to be about aspects of their identity and the level of individual support they receive when they need it. Such questions are beyond the scope of the current template but we intend to provide suggestions in some accompanying guidance notes.