

# **PERCEPTIONS AND IMPACTS OF WORKING PATTERNS WITHIN THE LEGAL PROFESSION IN SCOTLAND**

Research for the Law Society of Scotland  
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## **EXECUTIVE SUMMARY**

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The Law Society of Scotland commissioned qualitative research in 2014 to provide more detailed follow-up work from the 2013 Profile of the Profession Survey. This research considered the experiences of both men and women that are full-time, part-time, working condensed hours and/or have an element of home working, as well as partners, directors and managers with responsibility for managing teams and business interests. Topics for discussion included:

- working patterns within the profession and the impact of technology;
- experiences and perceptions of flexible working;
- the gender based pay gap (as evidenced in the 2013 survey);
- experiences of discrimination; and
- experiences of the Society and its services.

This research allowed the identification of a number of issues/problems that have developed around working patterns, as well as the emergence of some new ways of working that could provide wider benefits, and the identification of some best practice examples for tackling the issues.

### **Issues/Problems with Current Working Patterns**

Both the 2013 Profile of the Profession Survey and this research highlighted the embedded culture of working extensive hours. This was experienced at all levels within the profession, although partners were generally acknowledged to contribute the most significant number of hours overall.

It was generally regarded that this level of overtime had become necessary simply to stay on top of workloads, and whilst there was no overt pressure from management to work excessive hours, it was expected that staff would do what was required to 'get the job done'. Some also felt that certain people would work additional hours due to a desire to impress management and 'be noticed'. Others felt that if they were not seen to be in the office 'after hours' this would have a negative effect on their salary and career progression. Concern was expressed that this overtime culture had also led to presenteeism, which was generally regarded as a negative impact upon the profession. The extent of current, and largely unrewarded, overtime led many respondents to feel that they are being taken advantage of, and were very dissatisfied with their current working patterns.

Technology was seen to contribute to this increased workload. In particular, smartphone devices with push technology activated was seen as a significant driver of additional hours and a reduction in an acceptable work/life balance. Solicitors reported persistently receiving emails outwith office hours, along with an expectation, both by clients and their firm/organisation that they will respond instantly. Feelings of not being able to switch off and being permanently tied to the office were commonplace.

The culture of extensive overtime has also had an impact upon the traditional concepts of full and part-time hours. As those working full-time are working in excess of their contracted hours, part-time staff are equally expected to contribute more, meaning that many (particularly those working four days a week) are in reality contributing full-time hours yet only receiving a part-time salary. It has also created issues around the availability of condensed hours, as many employers feel this would be unfair on other full-time staff also contributing additional hours across the week who are not taking time back or being paid for this.

The impact of part-time and other flexible working patterns was also explored. Many felt that working flexible patterns would have no detrimental effect upon either salary or career progression, and that these benefits were determined purely by merit rather than simply virtue of the number of hours worked. However, many others felt that it would negatively impact a person's salary and/or career progression, and indeed a number of respondents had either personal experience of this or had anecdotal evidence. It is important to note that the impacts of working part-time were felt equally by men and women; there were no gender based impacts here, rather the negative impacts and assumptions made about part-time staff were felt equally by both genders.

The concept of a gendered pay gap was contentious, and whilst it would appear that there is not a significant issue of direct discrimination (in terms of women being paid less for directly equivalent roles and experience), although there was some evidence of this, there does appear to be an issue around assumptions made about women. Some partners acknowledged that they would make assumptions about a female employee that they would not make about a male, and that these assumptions would affect promotional opportunities. Evidence of females being denied promotions or alternative jobs because of an expectation that they may get pregnant in the future was uncovered. There was also concern and/or reluctance expressed by some for firms/organisations to allow teams or the number of partners to become too heavily reliant on females due to the expectation that they will take maternity leave. Some even suggested that positive discrimination may well take place to redress the balance of teams in favour of males.

### **Positive Working Patterns/Best Practice**

Although technology was seen to be a significant contributing factor to the increase in hours worked, it was not considered to be all bad. Many indicated that it had created both efficiencies for firms/organisations, but also facilitated a greater degree of flexibility in working locations. It was largely attributed as allowing home working, and increasing technological advances (for example video conferencing) was making home working even easier to accommodate with no detriment to the service received by clients.

Extensive benefits were identified for teams and firms/organisations accommodating flexible working patterns, with the main positives being retention of skilled and experienced staff, plus a happier, more motivated and often more efficient/productive workforce.

A number of elements of best practice were identified by respondents themselves, and also by the research team from the discussions. Many respondents took what their firm/organisation did for granted, and if they had little experience from elsewhere, were not

always able to identify more innovative or unusual practices as being examples of best practice. Examples included:

- An on-call system for the out-of-hours service provision so that each individual solicitor was not receiving contact from their clients.
- Fully embracing and supporting flexible working, this included elements such: as the provision of all types of equipment, hardware and software to facilitate home working; identifying opportunities where IT developments can further support and enhance home/flexible working arrangements; being fully supportive of the whole team and managing workloads fairly to ensure that no member of staff (full or part-time) is overloaded; and not hiding the prevalence of part-time working from clients.
- Some firms/organisations made a conscious effort to arrange team meetings, CPD and other training courses across a spread/mix of days, or to liaise with part-time colleagues when arranging these to identify suitable days so that part-time staff could attend.
- Some felt it was important that firms/organisations led the ethos of flexible working from the top, with some citing how much more supportive it was, and easier to request flexible working arrangements if some partners and/or managers were already working flexible patterns.
- One respondent identified that their employer provided nursery facilities on-site for employees. This was a particular luxury not cited by any other respondent, but they acknowledged this would not be possible in all workplaces.

# 1 INTRODUCTION

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## 1.1 BACKGROUND TO THE RESEARCH

### Equal Opportunities Commission Research in the Transformation of Work

- 1.1.1 In 2007, the (then) Equal Opportunities Commission (EOC) concluded a two year General Formal Investigation (GFI) into the transformation of work<sup>1</sup>. This investigation engaged with policy makers, researchers and employers who were leading the way on transforming the workplace to explore and develop new models of working. It considered elements of part-time working and the use of flexible hours and home working, as well as the changing work-life balance requirements and aspirations of individuals.
- 1.1.2 The EOC investigation found widespread recognition that traditional ways of working fall short of what society, individuals and businesses need in 21st century Britain. Although they considered that business is where any transformation will occur, the research concluded that this is not just a change agenda for business, illustrating that flexible and multi-dimensional working brings business and social benefits as well as personal benefits.
- 1.1.3 Their review found that both women and men are increasingly seeking to secure and protect a suitable work/life balance, but their experiences in the labour market is very different. They found that men in particular work long hours, while many women face low pay, work intensification and career stagnation. With both struggling to successfully combine work and caring roles<sup>2</sup>.
- 1.1.4 It was considered that flexible and part-time working arrangements were still associated with the 'mummy track', and seen as a concession to employees who deviate from the norm. They found that flexible and part-time workers often carried the stigma of being considered as less career-minded and less engaged with the business. As a result, they suggested that this leaves many women at a disadvantage, confining their flexible choices to poorly paid work at lower-organisational levels, whilst also ensuring the continuation of men in traditional working patterns despite evidence of a desire for greater flexibility to spend more time with their children<sup>3</sup>.

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<sup>1</sup> Equality and Human Rights Commission (2007) <http://www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-for-all/best-practices/working-better/what-is-working-better/background-to-working-better/transforming-work>

<sup>2</sup> Ibid, pg 14.

<sup>3</sup> Ibid, pg 18.



- 1.1.5 The report also identified technology and technological advances as an enabler and key driver for the development of new ways of working<sup>4</sup>. However, it was also felt that the potential of technology to support more radical and potentially rewarding changes in ways of working had yet to be fully exploited or embraced.
- 1.1.6 Findings highlighted the potential for increased staff productivity for firms/companies that facilitated and supported flexible working arrangements, citing on average a 20% productivity gain<sup>5</sup>. Conversely they indicated that not offering home or remote working could have serious consequences for businesses, including employees considering a career change<sup>6</sup>.
- 1.1.7 The report also provided evidence from the legal profession. They found that law firms competing to attract and retain long-term talent were increasingly recognising the need to help women to stay on board and progress<sup>7</sup>. To address this issue, a few firms had created a Legal Director type role as an alternative promotion/career path to partnership. This senior role was created to address the realisation that some employees, although highly talented, would prefer to opt out of the partnership path for lifestyle reasons, and found the new status has helped staff retention.
- 1.1.8 Presenteeism and long hours were considered to be valid considerations when developing reward packages, with manager's typically rewarding long hours instead of workers who are more efficient and get the job done in half the time<sup>8</sup>. The research did find, however, that sectors such as law who bill by the hour had found creative solutions to address this, for example, billing by the day.
- 1.1.9 One example was cited of a law firm who developed fairer and more enlightened pay structures and bonus systems<sup>9</sup>. Normally, good performance is rewarded by results of each team such as the value of contracts. However, this firm built in an emphasis on fairness, so that performance incentives are not based upon the amount of billing but on doing the job well. They felt that if billing was the sole reward criteria, then lawyers would cherry-pick cases with the largest billing potential, which would lead to unproductive tension between teams. Rather, the rewards are now broadly the same, with structured and transparent pay scales (e.g. five-year qualified solicitors in different departments now earn the same), and bonuses distributed on a collective basis, so when the firm has a good year everyone gets bonuses and days off, not just the chosen few.

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<sup>4</sup> Ibid, pg 60.

<sup>5</sup> Ibid, pg 30.

<sup>6</sup> Ibid, pg 30.

<sup>7</sup> Ibid, pg 55.

<sup>8</sup> Ibid, pg 61.

<sup>9</sup> Ibid, pg 62.

## **Law Society of Scotland Profile of the Profession Survey (2013)**

1.1.10 During 2013 the Law Society of Scotland conducted its Profile of the Profession Survey. This was a questionnaire based survey distributed to all solicitors, trainees and those retained on the roll. Over 3,400 responses were received, with a good mix of respondents represented from across the demographic profile.

1.1.11 The questionnaire was designed to collect information on the following areas:

- professional background and current occupational information;
- details of current working patterns, including hours of work, any flexible working arrangements and use of any career breaks; and
- identify any experiences of discrimination.

1.1.12 The data gathered within the Profile of the Profession Survey provided valuable insight into the legal profession and how it is currently working. This provided data on the patterns of work prevalent within the profession, identified the extent of overtime being worked and attitudes towards this, as well as the use of technology to facilitate increased flexibility around working locations. It also explored the experiences of and attitudes towards part-time and other flexible working patterns.

1.1.13 However, whilst extensive and valuable data was gathered, it was largely quantitative in its nature; and therefore there was little opportunity to gain a deeper understanding of personal experiences and the needs of individuals, or to understand the reasons behind responses and trends within the data. The Society therefore commissioned further qualitative follow on work to explore similar issues to those explored in the 2007 EOC research, and specifically to develop a greater understanding of issues around flexible working patterns, which may or may not directly involve a gender element. This research also tackled additional areas where previous survey data had identified gender issues, such as a gender based pay gap and direct or indirect discrimination based upon gender and/or working patterns in order to explore and understand these in more detail.

## **1.2 OVERVIEW OF THIS RESEARCH**

1.2.1 The Law Society of Scotland commissioned this research to consider two separate equality strands. One to consider the experiences of those practitioners with greater levels of experience and who are more established in their careers, and the other to investigate current working patterns and the impact of flexible working (which may or may not manifest itself as a gender issue). The results of the research into the experiences of more established practitioners has been published as a separate report<sup>10</sup>.

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<sup>10</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

1.2.2 This report presents the findings from the flexible working/gender based research undertaken, and considers the experiences of both men and women that are full-time, part-time, and partners, managers and directors with responsibility for managing teams and business interests. Topics for discussion included:

- working patterns within the profession and the impact of technology;
- experiences and perceptions of flexible working;
- the pay gap;
- experiences of discrimination; and
- experiences of the Society and its services.

1.2.3 Topic guides for each of the sample groups can be found in Annex C.

### **1.3 METHODOLOGICAL APPROACH**

1.3.1 Initially, it was intended that the research would consist of six mini-group interviews based within Edinburgh and Glasgow plus twelve depth telephone interviews with solicitors from across the rest of Scotland, including more rural areas. The mini-groups were planned as follows:

- Employed solicitors working traditional full-time patterns, one group for males and one for females;
- Employed solicitors working flexibly, either in terms of amended hours or working from home, one group for males and one for females;
- Partners or equivalent in-house managerial roles, again split by gender.

1.3.2 Respondents to the 2013 Profile of the Profession Survey were asked to provide contact details if they were interested in taking part in further follow-on research. This therefore, provided a valuable method for recruitment. Those respondents that had provided contact details were disaggregated on the basis of gender, position, traditional/flexible working status, and geographical location.

1.3.3 Two mini-groups were conducted, however, the remainder were cancelled due to recruitment difficulties. In order to capture views from all desired groups a number of telephone interviews were also arranged with respondents in Edinburgh and Glasgow. This change in approach worked well, and engaged with an increased number of solicitors. However, despite this more flexible approach designed to meet the needs of individuals, it should be noted that there was still less interest in the research from male practitioners, and the number of respondents within the male part-time/flexible working category remain lower than other groups.

1.3.4 All developments were discussed as the project evolved with the project lead at the Society. Changing the methodology and re-scaling the project meant that a valuable set of data was still produced.

## 1.4 SAMPLE PROFILE

1.4.1 Overall, 35 solicitors participated in this research. A full breakdown of the respondent profile is provided in Table 1 below.

Table 1 Sample Profile

		Number of interviews in Edinburgh/Glasgow	Number of rural/remote interviews
Males	Traditional full-time	4	2
	Working flexibly	2	2
	Partners	4	2
Females	Traditional full-time	5	2
	Working flexibly	5	1
	Partners	4	2
<b>TOTAL</b>		<b>24</b>	<b>11</b>

1.4.2 Respondents from the above profile included a mix of those within private practice, as well as those working in-house, including both the public and commercial sector. Respondents also included those from within large firms and organisations as well as those in smaller firms, sole practitioners, partners and business owners, as well as consultants. Those within the flexible working groups covered a range of working patterns, including part-time hours, condensed hours, term time hours and home working, which were often found to be implemented in combination as well as singularly.

1.4.3 The survey indicated that the reasons for choosing to work part-time or other flexible patterns varied between men and women, with women more likely to do so for child care reasons and men more likely to do so as part of a phased retirement plan. This was confirmed in the qualitative research, with greater numbers of flexibly working women found within the list of potential interviewees compared to men, and with most women who were interviewed working flexibly for childcare reasons and only two doing so to wind down. Fewer flexibly working males were available overall, with the pool of suitable respondents narrowed further as a greater proportion were consultants who were not contracted to any one particular firm and usually did not work in an office situation with other colleagues etc. Whilst respondents were not excluded on this basis some felt that they were not suitable to comment on much of the topic guide and therefore declined invitations to participate.

## 2 WHAT'S WRONG WITH CURRENT WORK MODELS

### 2.1 CURRENT WORKING PATTERNS

2.1.1 The 2013 Profile of the Profession Survey provided an insight into the general working patterns across the profession, and highlighted that extensive levels of overtime appear to be the 'norm'. The data showed that most solicitors start work before 9am, and often before 8am; most work through their lunch break, and many working beyond 6pm, with a significant proportion either still working beyond, or restarting work again after 8pm (see Figure 1).

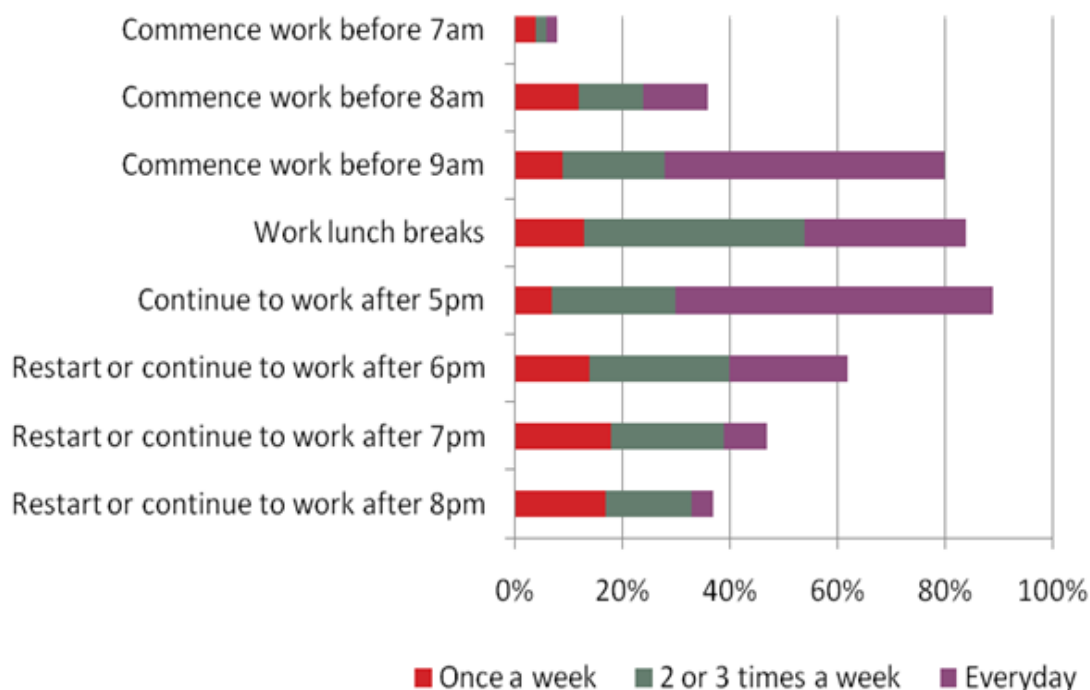


Figure 1 Typical Working Week

2.1.2 The survey also highlighted that a significant proportion (39%) of solicitors are unhappy with this general pattern and the total number of hours they work, and would prefer to reduce these. Further, respondents placed a high value on work/life balance in relation to both day-to-day motivations and future career aspirations. This was highlighted as important by a third of the sample (34%) and was ranked as the third most important day-to-day motivation, behind salary and quality of work. It was considered as even more important in relation to future career aspirations, where again it was highlighted as important by a third of the sample (33%), but this time ranked second overall, with salary the factor considered to be more important.

- 2.1.3 Levels of dissatisfaction and a desire to improve or protect an acceptable work/life balance should not therefore be underestimated or dismissed as an issue only for an insignificant minority.
- 2.1.4 The interviews discussed this issue in more detail to establish the true extent, nature and attitudes towards overall working patterns. Most interviewees indicated that the pattern outlined above was one they recognised, and to some extent did apply to them.
- 2.1.5 Many respondents in more junior roles indicated that they generally completed their overtime in the office, whilst many of the more senior levels indicated that whilst they would stay in the office until around 6.00-6.30pm they would also take work home and complete additional hours later into the evening. Whilst some junior grades indicated that they would on occasion take work home, this was generally less prevalent and less often than partners and other more senior grades. Further, the extent of the overtime reported was greater for those working in private practice compared to those working in-house, and in particular, those working in the public sector. This confirms the results from the recent report into the Experiences of Established Professionals<sup>11</sup> and the data from the 2013 Profile of Profession Survey, both of which identified that those in more senior positions are working longer hours than more junior colleagues, and that extensive overtime patterns are more prevalent in the private sector than in-house roles.

*“Being a partner you’ve really just got to make sure that the work’s all done.”* (Female, partner, part-time, urban central Scotland).

*“Our hours are 9:00 until 5:30, and some people will stay until around maybe 6:30, but it’s very rare that there’s anybody here beyond that who’s not a partner.”* (Female, partner, full-time, urban central Scotland).

- 2.1.6 Partners indicated that their Partnership Agreements did not specify specific daily working hours or a total number of hours to be contributed across the week. Rather there were generally clauses which stated they must be able to provide the firm with their full time and attention.

*“Our Partnership Agreement doesn’t specify working hours, rather it has the usual clause regarding providing our full time and attention.”* (Male, partner, full-time, urban central Scotland).

*“There are working hours that the office is open, but if you’re a partner you’re just expected to just do whatever’s necessary.”* (Female, partner, part-time, urban central Scotland).

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<sup>11</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

- 2.1.7 It was indicated that employees contracts all specify working hours, however, it was generally felt that they were expected to work in excess of these hours.

*“They’re all expected to work in excess of that [hours in their contracts], there’s no doubt about that.”* (Female, partner, part-time, urban central Scotland).

- 2.1.8 Whether respondents worked earlier in the morning or later into the evening appears to be very much a personal choice. However, it was suggested that starting earlier would be noticed less by management than staying in the office later at night.

*“Some people come in early and get away a bit earlier, and others work in the evening, it’s just a personal preference. I’m not very good in the mornings so I tend to work longer in the evenings.”* (Female, private practice, full-time, urban central Scotland).

*“I prefer to get in early to work rather than work late, but the guys that are in early are never noticed, it’s always the guys that work late because the people they’re trying to impress also work late.”* (Male, in-house Director, full-time, urban central Scotland).

- 2.1.9 Those in more senior roles, for example partners and business owners, were also more likely than those in other grades to indicate that they would end up working over the weekends and during their annual leave. Working on annual leave was generally restricted to checking emails and perhaps the occasional phone call, with respondents indicating they would typically not spend more than one to two hours a day on work issues whilst on leave. Some did state, however, that they had been required to attend meetings whilst they had been on annual leave, and others indicated that there was a greater expectation on them to be constantly in touch via email.

*“When I’m on holiday I do check emails on the Blackberry, but I don’t pick up anything more substantial, it’s really just checking that things are being dealt with, and maybe a quick call to the office if needs be.”* (Female, private practice, full-time, urban central Scotland).

*“If I do go away my iPhone comes with me and typically I would spend an hour each morning after breakfast doing emails, then I’d do the same again around four or five o’clock catching up.”* (Male, partner, full-time, rural).

*“Whilst on holiday I will typically spend about an hour a night checking emails, but this is a benefit for me because before the technology allowed this I can remember going on holiday and typically spending two hours on the phone to work each night.”* (Male, partner, full-time, urban central Scotland).

*"I have a blackberry and I'm expected to check my emails every day I'm away on annual leave." (Female, partner, part-time, urban central Scotland).*

*"I'm afraid I've been a little poor on that, I check emails, and I have been involved in conference calls, I've even arranged a video conference facility whilst on holiday so that I could participate in Management Board meetings." (Male, in-house Director, full-time, urban central Scotland).*

- 2.1.10 A few respondents indicated that they had tried, more recently to reduce the amount they work whilst on leave, or made a conscious effort to cease this entirely.

*"I used to work whilst on annual leave... but I have got to the point now where I need some time on my own so this year I made the very definite decision that if I'm on holiday then I'm on holiday and I will not take work away with me. Having said that I still have my Blackberry with me so if something really urgent came up of course I would deal with it." (Female, sole practitioner, part-time, urban central Scotland).*

*"I work at the weekends, but now I've disciplined myself not to work while I'm on leave. I used to do it, I used to find myself looking at my Blackberry or iPad so now I just don't take them, or if I do I'm strict and only use them for other uses." (Male, in-house, full-time, urban central Scotland).*

## **2.2 ATTITUDES TOWARDS CURRENT WORK PATTERNS**

- 2.2.1 Respondents that were able to work largely to their contracted hours and were not expected or required to work extensive overtime were generally much happier with their job and their work/life balance than those who felt the pressure/need to contribute additional hours. Generally, but not exclusively, these respondents worked in-house where the extent of overtime was lower than in private practice with less of a culture of long hours.

*"I hear horrendous stories about hours worked and the total disregard for the working time directive... On the basis that I never work on my non-contracted days, so compared to most people I have a really good work/life balance." (Male, in-house, part-time, urban central Scotland).*

*"Because I don't really work at the weekends I don't think my working hours really affects my home life." (Female, private practice, full-time, urban central Scotland).*

*"In my current role I feel that my work/life balance is very good, but in previous roles it wasn't, I had to work all the time. But in my current job I can get that balance right and I can leave things until tomorrow and leave more on time, etc." (Female, private practice, full-time, urban central Scotland).*



- 2.2.2 No interviewee indicated that they were paid for overtime, they generally felt that it was expected of them, either at their particular grade or for everyone within the profession more generally.

*“It probably is expected at my role. We do pride ourselves in offering a reasonable work/life balance, but at my level it’s expected that I’m almost permanently on-call. (Male, in-house Director, full-time, urban central Scotland).*

*“It’s just expected. To me that’s a problem in the whole corporate world that it’s just expected.” (Male, in-house, full-time, urban central Scotland).*

- 2.2.3 Some did suggest that their annual salary reflected the need for additional hours whilst others had a bonus system that took additional hours worked into account. However, this was only mentioned by a few respondents and may not be widespread practice across the profession. Some, generally within the public sector, indicated that they operated a flexi-time system which allowed them to accrue additional hours and then take these back at a later date, although the total number of hours that could be accrued was generally capped and there was a requirement for time to be taken back within a set time period otherwise these were lost.

*“I get pretty well rewarded for what I do and I don’t think I have any right to complain if I have to put in the hours to get it.” (Male, partner, full-time, urban central Scotland).*

*“Although we’re not paid formally for additional hours, our wages are a lot higher than market rate because of that, and in recognition of it. We also get bonuses and part of the bonus is based on hours worked, so there’s recognition of it there too.” (Female, private practice, full-time, urban central Scotland).*

*“One company I worked for operated a bonus scheme at the end of the year which was based on the number of hours you had worked.” (Male, in-house, full-time, urban central Scotland).*

- 2.2.4 Despite there being a feeling that working additional hours was expected, there was little evidence of overt pressure being put upon solicitors in this respect, either from partners, managers, or other colleagues. Rather, there was a general culture, which was apparent throughout the research, that those within the profession are expected to do what is necessary to get the work completed to the client’s satisfaction, a more general expectation across the board that *‘it goes with the job’*.

*“It’s not a nine to five job... If the works there then it needs to be done so there does need to be a degree of flexibility. And if you are not prepared to, or can’t do that then it’s probably not a job you’re going to like.” (Female, partner, full-time, urban central Scotland).*

*“There’s no overt pressure on them to do that [work additional hours] but I think some of them are very conscientious and put pressure on themselves to do that sometimes.”* (Male, in-house Director, full-time, urban central Scotland).

*“It’s expected due to both the workload and the culture.”* (Male, private practice, full-time, urban central Scotland).

- 2.2.5 There was a definite culture across the profession where individuals feel that the needs of the clients must be met in as quick a time as possible, even if this is at the expense of their personal time. There is an inherent expectation amongst solicitors that additional hours are part of the job, and that this has become inevitable.

*“It’s really client facing, it’s so you can do what you need to do for clients rather than necessarily needing to do it for my employer. It’s more to be able to deliver the client work.”* (Female, private practice, part-time, urban central Scotland).

*“Because all the partners are relatively hands on and our clients like us to do the work. And just the nature of running a business, there’s lots to do.”* (Female, partner, full-time, urban central Scotland).

*“It’s the nature of the work, and often deadlines set by clients, whether these are always necessary or realistic is a separate issue.”* (Male, partner, full-time, urban central Scotland).

- 2.2.6 Most suggested that the overtime was required due to ‘*volume of work*’ and in order to ‘*keep on top of everything*’, they felt that if they did not work additional hours on a daily/weekly basis then they would fall behind and be unable to manage their caseloads.

*“It’s been necessary to keep on top of everything, and more from an autonomous basis making sure that my area of the business goes well... No one’s made me do it.”* (Female, partner, full-time, urban central Scotland).

*“It’s not expected by the firm at all, generally I would say it’s down to workload. It’s not expected by clients either, but to be able to deliver the service to clients you have to. So on my day off, it’s not expected but it is good client service to be available if something is important for certain clients, so it’s just about providing a good service.”* (Female, partner, part-time, urban central Scotland).

*“I get a tirade from my family saying I’m meant to be at home and not meant to be working, but I say it’s far better just to do that [working from home on non-contracted days] and keep up rather than getting in a state because you’re not keeping up.”* (Female, partner, part-time, urban central Scotland).

- 2.2.7 Some suggested that there was also an element of personal preference to working additional hours, largely because they preferred to deal with things as they arose in an attempt to make things easier when they returned to the office. Others admitted that there was also an element of their own inability to ‘switch off’.

*“I’ve got a Blackberry... and I tend to find there’s a stream of emails coming through at nine o’clock at night as others are catching up on their day, but I’ll tend to deal with them at that point so that I don’t have to do it in the morning.” (Male, in-house Director, full-time, urban central Scotland).*

*“I do sometimes work on Sunday afternoon and evening, but more just to get caught up on things and to get ready for the working week.” (Female, private practice, full-time, urban central Scotland).*

*“I think it’s largely a personal thing. There are those that feel they can’t relax properly [whilst on leave] unless they are completely out of touch with the office, then there are people like me who can’t relax properly unless they know everything that’s going on. It’s not that I’m a control freak, it’s just that I prefer to know when there’s a problem.” (Male, partner, full-time, rural).*

*“This is the way I chose to work at the moment, nobody is making me do it, therefore, if I’m working far too hard it’s because I want to do that.” (Female, sole practitioner, part-time, urban central Scotland).*

- 2.2.8 Interrogating the reasons of overall workload further, some identified the targets for billable hours and competing tasks as having an impact upon the need for overtime. In addition to the billable client work there are many other tasks that require attention throughout the day that are not chargeable/contribute towards the billable hours, these included admin tasks, various team/management/partners meetings, committee activities/meetings, training, etc. This leads to many working overtime in order to then achieve their targets for billable hours as this cannot also be fitted into the standard working day.

*“Because I was quite diligent in what I was doing and took a lot of time to train the trainees etc. and I was viewed as being the go to person for other departments as I was seen as knowledgeable and helpful, I had to fix the photocopier, etc. So a lot of my time wasn’t then chargeable. You bleed time from so many areas and you can’t get it back, so I found myself having to work until seven or eight o’clock at night in order just to accrue the 5.6 chargeable hours.” (Female, private practice, full-time, urban central Scotland).*

- 2.2.9 The bonus systems mentioned previously may also be contributing to the culture of overtime and excessive hours, particularly in the recent economic climate where pay increases will have been rare and minimal. All respondents who mentioned that their firm provides a bonus system outlined that the number of hours/additional

hours that had been worked were considered and included in the calculations for bonus payments.

*“You only get the firm bonus if you’ve exceeded 100% of your target for chargeable time. We operate a two level bonus system whereby if the firm hits the targets then everyone gets a bonus provided they’ve got 100% of their chargeable time. And then there’s the extra-ordinary bonus for those that management think have gone way beyond the requirements.”* (Female, partner, part-time, urban central Scotland).

2.2.10 Although only a few were prepared to admit/suggest that their firm/organisation/team was short/understaffed, it seems apparent that individual’s workloads are not currently manageable within a standard working week. A few did indicate that additional staff would help the situation, but also highlighted that the recession had either reduced the potential for this, or in some cases was seen to have been used as an excuse by employers to reduce overhead costs.

*“Poor resourcing, the partners will not hire enough people to do the work, either because they’re not there (and it is hard to find people just now), or because they just want more profit at the end of the day.”* (Female, partner, part-time, urban central Scotland).

*“There is the issue of the work needing to get done, but also staffing issues where there’s not quite enough people to share the workload around to make it manageable.”* (Female, private practice, full-time, urban central Scotland).

*“During the recession years we were certainly very tight on staff, but we had to be to survive... but now we are beginning to staff ourselves up a bit better. Although we’ve learned a lot and are still very cautious regarding staff, and we do tend to run without any spare staffing capacity, but that means that if there is anything unexpected, like a departure or staff illness, etc. then it is very tight and we have had to ask staff to do a bit of overtime.”* (Male, partner, full-time, rural).

*“I do see the Partners still here and the assistants... and it is a culture now. But if you need people working until 7:30 every night, shouldn’t you have more staff?”* (Male, private practice, part-time, rural).

*“It’s the usual post-recession situation where the workload increases before the resources do.”* (Female, partner, part-time, urban central Scotland).

2.2.11 Many felt that, particularly with more junior grades, there was a culture of working late in order to be seen as dedicated, committed and to advance their career. Some more junior respondents also confirmed that this played a part in their reasons for committing extensive hours.

*“I feel it’s of benefit... I think it can only be viewed as a positive thing. But again, for me and my employer it’s not necessarily about the number of hours it’s about your experience and the nature of the work you’ve had exposure to, and I do find that by making myself available I do get better exposure, so hopefully it will pay off.”* (Female, private practice, full-time, urban central Scotland).

*“They seem to be genuine hard workers, and they like to be up to date all the time, but I’m sure that they’re trying to impress us, and the plain fact of it is that they do impress us because of their work ethic, despite us scolding them and chasing them out of the office in the evening.”* (Male, partner, full-time, rural).

*“Whilst we don’t actively encourage it, we don’t discourage it too much either. It does set a quite good example for some of the others that don’t put in quite the same effort.”* (Male, partner, full-time, rural).

*“I think if you’re prepared to work extra then it can help you in your career.”* (Female, private practice, full-time, urban central Scotland).

2.2.12 Some respondents did confirm that being seen to work additional hours would, amongst other attributes, be looked upon favourably in terms of advancing a person’s career.

*“It does make a difference that you’re seen to be a good worker, work additional hours when required, bring in the fees and be personable with the clients, and also be seen to be out there socialising with clients and other agents as well.”* (Male, partner, full-time, rural).

*“Working overtime to get everything done that’s required of you does definitely have an impact upon how you’re viewed at salary reviews and for promotion.”* (Female, partner, part-time, urban central Scotland).

2.2.13 Others however, felt that there was no equation of working overtime with commitment and dedication, rather they felt that it was simply expected and what was required to get the work completed.

*“It’s just expected, the focus is on getting the work done, so if it takes a long time to do it then that’s the nature of the job.”* (Female, private practice, part-time, urban central Scotland).

*“I don’t think anybody particularly notices to be honest... I honestly don’t get that impression at all. I think from my employers point of view, as long as the work gets done they don’t really care how it gets done, and I think most of the time I think they’re probably not even aware.”* (Male, private practice, full-time, urban central Scotland).

2.2.14 However, this culture of working overtime and it being seen to equate to dedication and commitment as a way to advance individuals careers appears to have also created presenteeism in some firms/teams, whereby respondents felt there was a need to be seen to be working late in the office on a regular basis, regardless of whether it was truly productive. Therefore, the overtime did not necessarily provide any benefits to the firm where additional work was being completed, simply that tasks were spread out over a longer time period so that staff could be 'seen' to be working late.

*"A lot of it is presenteeism, they could probably get their work done within the working day but they want to be seen to still be there at eight o'clock at night, but that's not their fault, it's the culture." (Male, left profession, previously full-time, urban central Scotland).*

*"Certainly when I was in private practice I think it was the culture. I knew folk that could have got their work done during the working day, but it was almost as if they left it so they could be seen to be there at seven o'clock at night. They were probably trying to send a message to those higher up the chain that they were committed." (Male, in-house Director, full-time, urban central Scotland).*

*"I had a colleague who used to bring two jackets in with him so that he could leave one jacket permanently hung over his chair so that people would think that he was in." (Female, sole practitioner, part-time, urban central Scotland).*

2.2.15 Whilst presenteeism was in no way seen as a positive manifestation within the profession, with most considering it an inefficient way to work, it was however viewed as common practice. Some highlighted the inefficiencies related to this manner of working, emphasising that recognition should be given to those that are more efficient and can produce high quality accurate work within set working hours, rather than simply recognising people that are working late without taking any account of the work that is being done.

*"I think the quality of your work should show the level of your commitment rather than the number of hours it took you to produce that piece of work." (Female, private practice, full-time, urban central Scotland).*

*"I think there's a balance of showing that I'm passionate about what I do and that I'm willing to do it and make sure that the firm is profitable and that clients are happy, but also that I'm not doing extra just for the sake of it or because I'm not doing enough during my working hours." (Female, private practice, full-time, urban central Scotland).*

*"From my point of view I find it more impressive when they are managing to juggle an enormous case load and apparently preserve their personal space." (Male, in-house Director, full-time, urban central Scotland).*

2.2.16 The importance of the number of hours worked, or being seen to be working late was confirmed by others who indicated that they felt it would be ‘noticed’ and possibly detrimental to their career if they did not do it.

*“There is this long hours culture that has grown unfortunately, that if someone is not prepared to or seen to be in the office at 7.30pm at night you are not pulling your weight etc., which is unfair.”* (Male, private practice, part-time, rural).

*“I don’t think it’s seen as dedication or commitment, I think it’s just expected. Not doing it would be noticed, doing it isn’t noticed.”* (Male, private practice, part-time, urban central Scotland).

*“I think it’s more the other way around, if you don’t do it, it doesn’t help your career.”* (Male, in-house, full-time, urban central Scotland).

*“It probably is detrimental to my career by constantly making my family time more of priority than some women do.”* (Female, private practice, full-time, rural).

## 2.3 THE IMPACT OF TECHNOLOGY

2.3.1 The 2013 Profile of the Profession Survey indicated that a significant proportion of the profession have some form of remote access to emails and office files (see Figure 2). The Survey was unable, however, to establish what impact this technology and levels of access had on individuals. This element was therefore explored in more detail within the interviews.

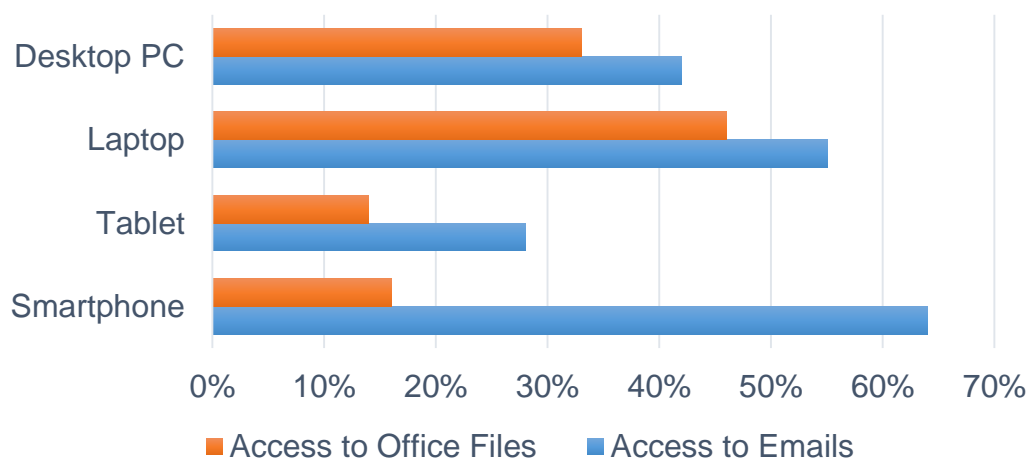


Figure 2 Access to Work by Device

2.3.2 Technology was felt to be having a significant impact on working hours and patterns. Whilst there were advantages discussed in relation to the impact of technology (discussed in more detail in Chapter 3), most individuals of all grades

and working patterns highlighted the challenges and negative impacts this had brought to the profession.

- 2.3.3 Almost all interview respondents had access to work files via their home computer or laptop, and most also had a smart phone which allowed them to check emails. Generally, respondents felt that this had impacted upon their ability to completely 'switch off' from work, and felt that it allowed work to invade their personal life.

*"It means increasingly that it's difficult to disconnect from your work because you've got the Blackberry flashing at you all the time... It means you're just permanently wired to the office really." (Male, partner, full-time, urban central Scotland).*

*"I think it's had a completely negative impact upon peoples work/life balance. I feel that people need to draw a line between work and home, and having a Blackberry makes this impossible." (Male, left profession, previously full-time, urban central Scotland).*

*"It certainly has an impact, it extends the period you're linked into what's happening and if you like it does bring the office into ones kitchen or living room." (Male, in-house, full-time, rural).*

*"It means you are never away from work... the phone has an alarm that comes on every time an email comes in or a text, and there is an overwhelming urge to read it, which is what you do... It impacts on every aspect of your life." (Female, private practice, full-time, rural).*

*"There's no escape from it. It's become part of the way that we work, and that our clients expect us to work, people don't switch off anymore." (Female, partner, part-time, rural).*

- 2.3.4 Others felt it had become too easy to 'quickly check' emails and they felt there was pressure to respond immediately. Some also expressed either a preference or compulsion to 'just quickly' address minor tasks in an attempt to 'get a head start for the morning'.

*"In my last firm they provided a Blackberry which did the emails 24/7, and it was expected that you would reply to these 24/7." (Male, private practice, full-time, urban central Scotland).*

*"The fact that somebody has sent it, the expectation now is that you've read it within seconds of it being sent." (Male, in-house Director, full-time, urban central Scotland).*

*"You're doing it because you think you're trying to get a head start on the following day to make things easier then, but it never really works like that, you just end up doing more." (Female, private practice, full-time, urban central Scotland).*



- 2.3.5 It was also suggested by some part-time workers that, whilst technology had facilitated their ability to work part-time, it meant that this went hand-in-hand with having to check emails etc. on non-working days.

*“The only way that I can work part-time is if I check that there is nothing incendiary going off when I’m not in the office, and that’s part of the learning curve, learning what you’re going to deal with and what you’re not, but you still have to check.”* (Female, private practice, part-time, urban central Scotland).

- 2.3.6 Some suggested that, emails in particular, had generated increased workloads, and created continual interruptions, both during their personal time and during the working day.

*“You’re always expected to be accessible.”* (Female, partner, part-time, urban central Scotland).

*“I think it’s created much more work as you now need to read 25,000 emails that are not relevant to you at all, and it’s also made the job much more stressful because IT continually breaks down, it’s essentially unstable.”* (Female, partner, part-time, urban central Scotland).

*“It’s the continual interruptions. You can be sitting doing something and you see an email pop up and you think I’d better deal with that.”* (Female, partner, part-time, urban central Scotland).

- 2.3.7 It was also widely agreed that new technology had created unrealistic client expectations. Many felt that clients now expect an immediate response to emails, and that the use of computers to draw up forms, documents, etc. means that they also expect tasks to be turned around quickly.

*“Clients have become unreasonable with IT because they will now phone you up and say “I sent you an email an hour ago and I’ve not had a response yet”. So it’s made our job harder, you’ve got to respond instantly.”* (Female, partner, part-time, urban central Scotland).

*“They expect you to be reading and dealing with emails at all hours and over all days, even when the office is shut.”* (Male, private practice, full-time, urban central Scotland).

*“I think it creates a situation where clients think that matters can be dealt with more rapidly and that you should be able to get documents to them almost instantaneously.”* (Male, in-house, full-time, urban central Scotland).

- 2.3.8 There was a general concern however, that the speed with which some people responded meant that responses were not as well considered as they should be.

*“If clients email you, they expect an instant response and the temptation is to do so... but that’s not a good thing for Solicitors, you should be thinking about it first.”* (Female, private practice, full-time, rural).

*“It helps with efficiency, but I certainly have question marks about quality as it lends itself to people rushing ill-considered responses to things and rushed engagement. This can lead to inefficiency as you can end up with trails of emails trying to address the ill thought out email that was sent out to start with.”* (Male, in-house Director, full-time, urban central Scotland).

*“We tell our staff that they have to treat each email as if it were a letter and respond in the timescale that it deserves rather than just immediately just because it’s an email.”* (Female, partner, part-time, rural).

- 2.3.9 Some did wonder however, if the unrealistic expectations from clients had been generated or encouraged by practitioners own behaviours, or was sometimes created by an unwillingness to try to manage client expectations, to say no to clients, or alert them to the fact that they work part-time.

*“I wonder if it’s because we’re not tough enough with clients. If you are going away you’ll tell them and nothing will happen, but the rest of the time we’re not tough enough to say to them that nothing will happen on Fridays, because we’re all frightened that if we say to clients that we’re not in on Fridays then they’ll want someone else to do their work.”* (Female, partner, part-time, urban central Scotland).

*“Law firms are scared to tell clients that it’s not possible in this timescale because they fear that the client will up sticks and go to another firm.”* (Male, left profession, previously full-time, urban central Scotland).

*“Clients now expect a service 24/7, and it would take a cultural change to say we’re not going to give that.”* (Female, private practice, full-time, urban central Scotland).

- 2.3.10 Of those that had found themselves working whilst on holiday, many indicated that this had solely been possible due to technology. Before the advent of laptops and smart phones it was much easier to switch off from work whilst on annual leave. Now, however, unless an individual is very disciplined and either does not take the work phone with them or switches off the push technology for work emails whilst away, it is too easy to be contacted and/or tempted to respond.

*“In the dark ages when you went on holiday someone else dealt with your letters and sent letters... the expectation of clients now is that they will email you and expect emails back from you.”* (Male, private practice, part-time, rural).

2.3.11 The 2013 Profile of the Profession Survey indicated that nearly half of those with remote access to emails and files had either chosen not to activate these or made conscious decisions not to access these 'out of hours'. A few interview respondents also highlighted the same decisions. Some had decided not to activate these facilities, particularly in relation to accessing emails via smartphone devices, although they knew they were available to them if they wished. They indicated that they had taken a very conscious decision not to activate these in order to act as a barrier and help safeguard their work/life balance. A few who had activated these said that they were very strict/disciplined with themselves and tried very hard not to check work emails etc. outwith their working hours, again to preserve their work/life balance. One respondent also indicated that, whilst they had activated this, they had not alerted their employer so that there was no expectation/pressure on them to check and respond to emails when they were not in the office.

*"I do sometimes actually switch my phone off because I have to have some time where I'm not dealing with it." (Female, private practice, part-time, urban central Scotland).*

*"I very rarely take the laptop home... I prefer to keep my work life and my home life separate." (Male, in-house, part-time, urban central Scotland).*

*"It's something that I've been offered and have refused to protect my work/life balance. Home is home, and work is work, I like to keep the two separate." (Male, private practice, part-time, urban central Scotland).*

*"I do have it but I pretend that I don't. I'm trying to limit the encroachment on my home life of work." (Male, private practice, full-time, urban central Scotland).*

2.3.12 There was a strong desire, amongst some at least, to return to regular office hours across the profession as a whole, and that the culture of excessive workloads and associated overtime left many feeling exploited.

*"I don't see why in the legal profession there seems to be a taboo about just working nine to five." (Male, left profession, previously full-time, urban central Scotland).*

*"There is a general feeling that people are being taken advantage of and that packages don't really reflect that unless you're very senior in a big corporation." (Male, in-house, full-time, urban central Scotland).*

## 3 FLEXIBLE WORKING

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### 3.1 PART-TIME VS FULL-TIME

- 3.1.1 Whilst most respondents indicated that their firm/organisation did provide part-time and other flexible working options, and that in most cases these were either very well or fairly well supported, many did suggest that some posts and sectors within the profession were not suitable for part-time working.

*“I would not be able to do my job well if I was working part-time, because you can’t be there for the clients when they need you if only working part-time... if you’ve built a relationship with them over 3-6 months and then can’t go into court with them, it doesn’t sit well.”* (Female, private practice, full-time, rural).

*“There was one partner who wanted to work part-time but because she was a conveyancer it was felt that her not being there for a day had a real adverse impact upon other people. But another partner in the asset protection team... was able to work four and a half day without any impact on her clients.”* (Female, sole practitioner, part-time, urban central Scotland).

*“It always comes down to can the work be done in the time? So wills, trusts and executors suits part-time because it tends to be a long transaction but with only a little bit done at a time, whereas a commercial or corporate transaction tends to need everybody on-board for 24 hours a day for five days to get the deal done.”* (Female, sole practitioner, part-time, urban central Scotland).

*“But there are some roles that I think are very hard to accommodate part-time, for example a large team with a senior manager in charge of it, this probably needs to be a full-time person, otherwise it can be difficult to do the job properly.”* (Male, in-house, full-time, urban central Scotland).

- 3.1.2 The general increase in working hours across the profession generates issues around the language associated with traditional working patterns, particularly in relation to the definitions of full-time and part-time. It was often sighted, both by part-time workers and some full-time workers, that due to the extent of overtime required some part-time workers are essentially working full-time hours but for a part-time salary. This was particularly the case for those that worked the equivalent of a four day week.

*“I think the worry is that if you work part-time you effectively work full-time anyway.”* (Male, in-house Director, full-time, urban central Scotland).

- 3.1.3 One respondent working a four day week indicated that, whilst they did not work on their non-contracted day they did work an additional two to two and a half hours on each of the four contracted days. This would equate to greater than a standard full-time post within their organisation. However rather than having a condensed hours contract, which would seem more appropriate, they were part-time and therefore paid pro-rata for part-time hours. This was a common experience and perception of those working part-time patterns.

*“They pay essentially 20% less but still get essentially the same level of work and I still bring in largely the same level of fees.”* (Male, private practice, part-time, urban central Scotland).

*“I’m supposed to only work four days but for at least the last nine months I’ve been working more than a full week’s work simply because it’s necessary due to the volumes of work.”* (Female, partner, part-time, urban central Scotland).

*“My boss doesn’t work Mondays, but she picks up emails and is contactable on that day and I suspect that she will do a bit more work in the evenings as well. So although she is technically part-time I suspect she’s more likely working condensed hours.”* (Female, private practice, full-time, urban central Scotland).

*“It was more difficult for them [a part-time staff member] trying to squeeze five days’ work into four.”* (Female, private practice, full-time, rural).

- 3.1.4 This appeared to be less of an issue however for those that worked less than four days a week. Although there was still an element of overtime involved, it was not considered to be extensive enough to be the equivalent to a full-time post.

## **3.2 PERCEPTIONS OF OVERALL DEALS**

- 3.2.1 It was generally felt that, on balance, there was little difference between full and part-time workers in terms of who has the better overall package.

*“There’s possibly a bit of envy from those of us working full-time thinking we’d like to be working part-time if we could. Then again, those working part-time probably feel that they’re not really working part-time and not being paid for the hours they put in. I suspect there’s an element of ‘the grass is greener’ from both sides.”* (Male, in-house Director, full-time, urban central Scotland).

*“I think it’s fairly mixed, if you’re in a part-time role then you’re on a reduced salary but you can fit in the rest of your life, if you’re full-time you sacrifice that for a tiny bit more pay.”* (Female, private practice, full-time, urban central Scotland).

- 3.2.2 However, some felt that part-time workers were ultimately worse off in relation to their career as they were limited both in terms of salary and career opportunities.

*“Purely from the employment point of view full-time staff do have it better, because they are there to be seen and their chargeable hours will be that bit higher, and therefore they will always appear that much better.”* (Male, private practice, part-time, urban central Scotland).

*“Ultimately you’re paid poorly, you don’t have the same opportunities and career advancement, etc. You sometimes feel that you have the worst of both worlds because you don’t feel that you’re doing anything properly.”* (Female, private practice, part-time, urban central Scotland).

*“The only issue with part-time working is in relation to salary. Generally across the profession they are not paid relative to how qualified they are and senior they are because they’re part-time.”* (Female, private practice, full-time, urban central Scotland).

*“Only from the perspective that it will be easier for full-time staff to get promoted than part-time staff... I think full-time staff would admit that part-timers still do more that they are contracted to do and that they are working harder to make up their hours.”* (Female, private practice, full-time, urban central Scotland).

- 3.2.3 A few did indicate that they felt that part-timers possibly had the better overall deal in that they would typically work to their contracted hours and not have to work additional overtime.

*“I do have issues with one or two people who seems to be far more flexible than everybody else, which I don’t think is fair on the people round about them. I think that perhaps in our office females are getting a better rub of the cloth.”* (Female, partner, part-time, urban central Scotland).

*“Maybe part-timers do get it a bit more on the easy side if their work is being covered quite well when they’re not there.”* (Male, private practice, full-time, urban central Scotland).

### **3.3 PERCEIVED IMPACTS OF FLEXIBLE CONTRACTS**

#### **Impact upon Career Progression**

- 3.3.1 There were mixed opinions regarding whether working part-time or other flexible patterns would have any impact upon a person’s career prospects.
- 3.3.2 Some thought that it would not have any impact and indicated that salary reviews and promotions within their firm/organisation were based purely on merit. They also cited a number of examples where managers, partners, or other senior grades

within their firm/organisation worked part-time, and therefore expected that others should be able to achieve this as well.

*“I think if they’re good enough they’ll get partner, I don’t think other factors would stop them.”* (Female, partner, part-time, urban central Scotland).

*“Myself and the other partner [who works part-time] became partners at the same time. I don’t think there are particular barriers, I wouldn’t like to think so anyway!”* (Male, partner, full-time, rural).

*“If someone was pushing for promotion and we think they deserved it, then they would get it regardless.”* (Female, partner, part-time, rural).

*“We choose people in this firm for their role and for promotion based solely on their qualities rather than anything else. We accept that there’s a risk with women that we may lose them for some of their career, but if they’re good and they fit our profile, then we take that on board at the start.”* (Male, partner, full-time, rural).

- 3.3.3 Others however, felt that the statistics in relation to ratio of male:female partners compared to the ratio of males:females within the profession generally now indicated that there must be additional barriers or issues faced by women in terms of career progression/gaining the top jobs.

*“I think the majority of people going into the profession currently are female, but the numbers of partners, certainly in the central Scotland, the number of female partners is really small compared to the number of male partners.”* (Male, private practice, full-time, urban central Scotland).

*“It would be fair to say that still within most of the larger corporate firms most of the appointees are still male.”* (Female, private practice, full-time, urban central Scotland).

*“If you look at boards and senior partners... it is still the case the majority are men and I think it will continue to be men. I think there is a general pre-conception that women are here to have a family, get married, work part time... they are not Chief Executive level.”* (Female, private practice, full-time, rural).

- 3.3.4 Whilst some felt that this gender based partner level ratio would improve in the coming years, others did not see this improving.

*“Just because we have more women coming through the profession I don’t think we will have more women partners, I don’t think that’s the case at all. I think we’ll just end up with more women feeling that they’re not getting to that status because they do have to take that break to have a family.”* (Female, private practice, full-time, urban central Scotland).

3.3.5 Typically, the main barriers to career progression and in gaining partnership positions were considered to be greater childcare responsibilities, what is considered to now be extensive periods of maternity leave, taking career breaks for family reasons, and part-time working. These were sometimes seen as genuine reasons for the lower number of women in partnership positions rather than always discrimination against women. By virtue of having time out of the profession and/or working fewer hours they would typically fall behind male or full-time colleagues in terms of experience. Others, however, felt that these were reasons used to discriminate against women, with some identifying that the mere assumption that a woman would become pregnant at some point in the future would be a factor for some firms when considering applications/promotions.

*“Just that women generally take on more childcare, and you’re off on maternity leave for so long.”* (Female, partner, part-time, urban central Scotland).

*“Clearly if women are going to take time off to have children, in enlightened organisations I think that’s starting to not make any particular difference, but I suspect that for a good number of women and organisations it still does.”* (Male, in-house Director, full-time, urban central Scotland).

*“I think they do face additional barriers; whether it’s just that they’ve had that couple of years out to get there, or because they’re working part-time, so unless they want a part-time partner then I think there is barriers and it can be a challenge to get there. A number of women have managed it, but certainly not many compared to male counterparts, and compared to when males are offered it, I think this is often at a younger age than women.”* (Female, private practice, full-time, urban central Scotland).

*“For some firms there is still a reluctance to have a lot of female partners. There’s always the expectation that you might have maternity leave, or that if the children are sick then they will take time off whilst the father doesn’t, but that’s a cultural thing as well.”* (Male, in-house Director, full-time, urban central Scotland).

3.3.6 Working part-time appears to be a significant barrier to career progression, with many considering that any spell of part-time working would be detrimental to a person’s career, for both males and females. This was true even in firms that were supportive and accommodating of flexible working arrangements; those working part-time hours, whilst supported to do so, were seen as less viable for promotion opportunities. A number of respondents (both male and female) had personal experience of being told directly by partners and/or HR staff that working part-time would limit their/other colleague’s career progression.

*“I think there’s a connotation within the profession that if you work part-time then you’re not ambitious. The profession has got to the stage that*



*anything other than the norm is viewed with suspicion.” (Male, left profession, previously full-time, urban central Scotland).*

*“My promotion prospects are not good right now. I think I’m seen as having less commitment... I just don’t think I’d be a candidate for promotion despite the fact that I have a good work place and a good manager, and we have good policies that are adhered to. Those in senior positions are generally full-timers and are generally child-free.” (Female, in-house, part-time, urban central Scotland).*

*“If I wanted to help my career I’d need to go back to work for five days a week, working the overtime that I do is not enough.” (Male, private practice, part-time, urban central Scotland).*

*“There would always be the unspoken question of are we going to progress them if we think they are going to go off and have another maternity leave... so to a certain extent it possibly does [have a negative impact on career progression], but more with a view to how long are they going to be working part-time.” (Female, partner, part-time, rural).*

*“I guess it would have an impact. We have a philosophy here that our equity partners anyway do need to be able to dedicate their full time and attention to the firm... We are a bit more flexible with salaried partners... but I guess if you were a part-time salaried partner it will hold you back from becoming full equity.” (Male, partner, full-time, rural).*

*“Some partners do work part-time, but they were appointed on a full-time basis and then moved to part-time as their circumstances changed, once they were in the role. I can’t think of any appointments to partnership level other than on a full-time basis.” (Male, partner, full-time, rural).*

*“I can’t imagine that they would ever promote someone who was part-time to partner.” (Female, private practice, full-time, urban central Scotland).*

3.3.7 One respondent cited direct experience of how they felt their career had been visibly limited by working part-time.

*“There were two of us, both females, working for a male partner, and we were working flat out. I was contracted to four days a week at that point but having to work fives plus days, and the other female was full-time also working five days plus. Between us we said that we would not continue to work to that extent, which is when I was given lower part-time hours and she was made a partner. Because I had young children and I couldn’t work full-time, she didn’t, so she got the partnership and I got further reduced part-time hours.” (Female, private practice, part-time, urban central Scotland).*

- 3.3.8 It was mentioned by a few that the time contributed was the biggest issue, and that those working part-time had less time in which to achieve their targets and wider goals. It was also generally considered that it would therefore be harder for part-timers to achieve promotion if they were competing with full-time applicants. One respondent indicated that they had been told by a partner that another colleague's move to part-time hours would decrease their chances of promotion as they were contributing less hours and therefore gaining less experience.

*"I think if you're not in at least four days then you're probably not going to be at the coal-face as much and you can't offer the same continuity with a client, so it possibly does have an effect upon career progression."* (Female, partner, part-time, urban central Scotland).

*"That's what a partner said to me before, if you're looking at promotion then they're looking at the experience that person has and the person who is full-time has more experience than someone who's part-time simply by virtue of the number of hours."* (Female, private practice, full-time, urban central Scotland).

- 3.3.9 Another respondent also mentioned that the number of hours contributed appeared to be a factor; however, they provided a counter-argument to highlight that part-time solicitors will not necessarily have less experience simply by being contracted for fewer hours due to the need to be more efficient within these hours.

*"I don't agree with the argument that because you're part-time that you have less experience by virtue of doing less hours. I think that because you are part-time you sometimes go in to prove that you can do as much and in fact more within your hours, because you've only got that amount of time really so you're trying to get everything done that comes your way, as well as the business development and all the rest of it."* (Female, private practice, full-time, urban central Scotland).

- 3.3.10 Some felt that the length of time a person would be perceived to want to work part-time would be more likely to have an impact, rather than simply working part-time in itself. For example, those who have just had their first child would be expected to have further periods of maternity leave and be at the start of a prolonged period of part-time working. They would, therefore, find it harder to achieve any promotion compared to someone who's children were perhaps about to start school as there would be an expectation that they would increase their hours again, be able to contribute more overtime, etc. They felt, therefore that any detriment would come more from managers/partners expectations/perceptions regarding staff's balance of priorities, and not necessarily directly from working part-time hours. This suggests that any detriment to an individual's career is a result of assumptions being made about employees' levels of future availability as well as their future plans or circumstances for their personal life. This was evidenced further by the suggestions from some that women who have just got married could also suffer from these assumptions as it will be assumed that they will soon start a family, with

these assumptions prematurely influencing decisions around salary and potential for promotion.

*“It’s more if we thought that their eye was back on their career rather than on their family, it’s a balance of priorities. But whilst we felt that somebody was in the throes of maybe going off again for maternity leave then we probably wouldn’t, but once we thought they were done with that and were moving on then we’d be more likely to look at them again for career progression... It’s more the risk of losing them for a year at a time rather than working part-time that’s the issue.”* (Female, partner, part-time, rural).

*“There are part-time partners in the firm, but their children are very much older than mine, and they can demonstrate on a much more regular basis of being there. They work their part-time hours across the five days so they’re in every day.”* (Male, private practice, part-time, urban central Scotland).

*“I was told by HR, that the male partners didn’t want to give me the job because I was getting married and would quite quickly want to start a family.”* (Female, private practice, full-time, urban central Scotland).

- 3.3.11 It is important to recognise however, that whilst the impacts of working part-time may be largely felt by women in the profession, there is no gender bias in these impacts. Younger men working part-time, or who explored the opportunities for flexible working arrangements outlined similar experiences and faced similar limitations to female colleagues.

*“There were a group of us all made up to Senior Associate level at the same time, and I’m the only one who’s not now a partner.”* (Male, private practice, part-time, urban central Scotland).

*“I think there are assumptions that I am less committed simply because I am not there one day a week.”* (Male, private practice, part-time, urban central Scotland).

*“It was also made clear that this [working part-time] would make me a second class citizen in terms of promotion.”* (Male, left profession, previously full-time, urban central Scotland).

3.3.12 The change in the law around maternity leave, allowing this entitlement to be split between both parents, may not provide a significant benefit in reducing the limitations to women's careers or change the assumptions being made about women. It was expected that maternity and ongoing childcare will remain largely a women's responsibility into the foreseeable future. However, it may impact negatively on any male that requests this right due to the unusual nature of the request and continued stereotyping around gender roles.

*"I think the reality is that it still will be the women that takes it [maternity leave] for a long time yet. To be honest, if we had a male member of staff that wanted six months off we would struggle with that I think to get used to that idea, we know we'd have to say yes, but I think we'd struggle more with that just because we're not used to that idea."* (Female, partner, part-time, rural).

3.3.13 There was some limited feeling that if/when a person returned to working full-time hours again that any detrimental effect on their career progression would be removed and they would again be considered favourably for promotions etc.

*"We encourage them, if they want to, to go back to full-time, or to increase their hours nearer to full-time, and then once they became full-time again it wouldn't hold them back from that point forwards."* (Male, partner, full-time, rural).

*"I think it depends upon where you are. I think in some places the detriment could well lessen, but in some legal practices I think you would be seen as showing your true colours if you like and I don't know that you'll ever get that back."* (Female, partner, full-time, urban central Scotland).

3.3.14 Whilst some respondents felt there was an element of discrimination against part-time workers, they felt this would never be admitted and that it would be hidden behind other more legitimate excuses.

*"I think what would happen is that it just wouldn't be discussed. I think that people are canny enough about equalities policies that they would dress it up as something different. Nobody would ever say it's because you're a working parent."* (Female, in-house, part-time, urban central Scotland).

3.3.15 Another barrier, that was specific to women in the profession, involved the nature of the work being centred around the traditional 'male' lifestyle/work pattern and not flexible enough to either accommodate 'female' responsibilities or recognise and reward different inputs. I.e. the extensive networking and client entertainment that is required within the profession is typically centred on evening events/activities, making it very difficult for female solicitors who have families to attend/engage in this, certainly with the frequency required to progress their careers within some firms.

*“Perhaps because she was expecting to be at home at six o’clock and perhaps not do the extensive networking that others did. So perhaps that is saying that there is a barrier there as it is still the culture between male and female ways of working where males are free to go out and have dinner with clients every night of the week whilst somebody’s got to be at home.”* (Female, sole practitioner, part-time, urban central Scotland).

- 3.3.16 One respondent also suggested that women may face specific barriers in relation to perceived client expectations, i.e. that clients may still hold fairly stereotypical views about what they think a high quality solicitor will look like - generally male.

*“I think there’s also an issue for a lot of them that they think clients expect their solicitor to be a guy in a grey pinstriped suit and therefore women don’t fit this criteria of what the client would see as a quality solicitor, they think a lawyer should look and sound a certain way.”* (Male, in-house Director, full-time, urban central Scotland).

### **Attitudes Towards Women in the Profession**

- 3.3.17 Whilst many felt that women were seen as being just as dedicated, professional and capable as men, and most felt that there was no negative stereotyping within their own firm/organisation, many did feel that women still faced stereotyped assumptions across the profession as a whole.

- 3.3.18 Some felt that women were not seen to be quite as dedicated as men, and that they would take time out to have families, probably have a period of part-time working or be less available for overtime, and would also have increased instances of days off for caring responsibilities.

*“I think profession wide we are probably not seen as being as dedicated, and are seen as being a bit of a hassle at times with maternity leave etc.”* (Female, partner, part-time, rural).

*“I was told in my last firm, when we were recruiting for someone to join the team, there was someone who wanted to do four days a week but I was told that the partner I was working for didn’t think it was appropriate to have part-time working and that he expected that in the end she would go off and have more children so he didn’t want her in the team. It was one of the reasons why I left because I thought there was nowhere for me to go within that firm.”* (Female, private practice, full-time, urban central Scotland).

*“In my previous firm there was always a generalisation of ‘that team’s got a lot of women, they’ll all go off on maternity leave around the same time, that’s not very good, so we need to start employing males’, you could actually see that. That team has now changed so that it is heavily dominated by men whereas it was mostly females before.”* (Female, private practice, full-time, urban central Scotland).

- 3.3.19 Some felt that this stereotyping, on occasions, suited some employers who were able to employ women thinking that they would not be extensively career driven and seek a partnership position.

*“I think it suits employers a lot of the time. I think a lot of the time women are employed because they know they are not going to be knocking on the door of partnership because they’re made to feel lucky to have a job and made to feel that their contribution is valued only this much...”* (Female, private practice, part-time, urban central Scotland).

- 3.3.20 Some did feel that there was still a legacy of an historic patriarchal view that a firm won’t get as much from a female partner as they will from a male partner. There was a suggestion that there was a difference in views and treatment of women between different firms. Those firms with positive attitudes towards women and where equality was advocated were described as more enlightened and progressive.

*“I think there probably is still a legacy male view that a firm won’t get as much out of a female partner as it will with a male partner.”* (Male, partner, full-time, urban central Scotland).

*“I sensed a general lack of inclusiveness towards women. They were far less likely to be promoted even to associate, far less partner level. When I was in practice, in the firms I worked for no female partners were assumed from their ranks and only 2 were brought in from other firms, and then, only when a significant client caseload accompanied their joining the firm. One of these firms was middle to large sized and there was a large pool of talented women from which to choose.”* (Female, sole practitioner, part-time, urban central Scotland).

*“I had a conversation with a partner in a Glasgow law firm when I was a trainee, who said to me openly, “When I see a women coming through the door to interview for a post in my firm I see maternity leave”, that’s not very enlightened.”* (Female, in-house, part-time, urban central Scotland).

- 3.3.21 Whilst most respondents did, however, feel that these views are starting to change, some felt that assumptions were still being perpetuated by some younger men and by women themselves.

*“They’re quite often made by women themselves, it’s not always males.”* (Female, partner, full-time, urban central Scotland).

*“Even some partners that are not really what you would call ‘old school’, but some in their late thirties and into their forties, can still be very misogynistic about some things, and I think they still want to maintain the culture and are not interested in women as equals. And if they’re on the Managing Board and making the decisions then you’ve got no hope.”* (Female, private practice, condensed hours, urban central Scotland).

3.3.22 As discussed previously, many respondents also highlighted that despite greater numbers of women entering the profession they are still found in only relatively small numbers in the top positions. One felt that recent market conditions had perhaps allowed for discrimination to be masked.

*“This is a profession where more and more women are coming through university and joining the ranks, but they’re still not getting to senior positions. I know there have been hard times in the market, but I think this has been used as an excuse to discriminate.”* (Female, in-house, part-time, urban central Scotland).

*“The legal profession is increasingly dominated by women... but the proportion of women making it to the very top grades, that proportion difference is very different. Partly I suspect that this may be a time lag, but that time lag has been going on a while now, and I suspect it’s also about culture.”* (Male, in-house Director, full-time, urban central Scotland).

3.3.23 Similar to the early experiences of some women that are now more established in their career, as detailed in the associated age related research report<sup>12</sup>, a few females in this research had also come across stereotyping assumptions based upon their gender. One female had encountered stereotyping in her traineeship where all women were expected to do, and pushed into doing one particular area of law. She had also experienced joining a very male oriented firm and felt she was expected to be twice as good as male colleagues.

*“I did a traineeship with a big Edinburgh firm and it was clear to me that they were looking for men rather than women to retain and move them forward. Women are for the soft option, you can do family, you might be very good and get to do debt recovery, maybe a bit of personal injury, but so far as corporate, the big paying things I still think you are looking at a gender bias towards the male.”* (Female, private practice, full-time, rural).

*“It was actually said to me that if it hadn’t worked out that they would never have taken on another female.”* (Female, partner, full-time, urban central Scotland).

3.3.24 Others described situations where they/other colleagues have been assumed to admin assistants or other support staff rather than fully qualified solicitors with significant levels of experience. Some of these instances were historic, however, some provided current examples suggesting that, whilst attitudes and expectations are changing, these stereotypes are perhaps not entirely eliminated from the profession as yet.

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<sup>12</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

*“I think it depends upon the age of the solicitor. My colleague has a significant number of years standing as a solicitor but when I’m on the phone and I say can you speak to [name] on this they think she’s my secretary, even though she’s been practicing for much longer and is much more qualified than me. It very much depends upon the generation of the lawyer.”* (Male, private practice, full-time, urban central Scotland).

*“There’s very much a perception that the women within the profession are support staff. And when I was support staff as a paralegal, when I was phoning up from a law firm it was immediately assumed that I was a solicitor.”* (Male, private practice, full-time, urban central Scotland).

- 3.3.25 Some also indicated that perceptions of female solicitors could be an issue with certain clients, either from those that are older and more traditional in their outlook, and/or those from heavily male dominated business sectors.

*“Probably with certain clients though... in a previous company I worked in I was quite surprised at the bias against female lawyers, in male centred sectors like engineering for example.”* (Male, in-house, full-time, urban central Scotland).

*“I think older clients can actually be really quite bad for it as well. People have said to me, “I’m glad they’ve not given me another female one” and things like that. I always met this head on and questioned it but many others probably wouldn’t have and just laughed along with them because client is King and you can’t be seen to be disagreeing with your client.”* (Male, left profession, previously full-time, urban central Scotland).

- 3.3.26 Despite identifying negative perceptions of women amongst the wider profession, most respondents indicated that they had only positive experiences of women in their firm/organisation, and that perceptions were largely positive within their firm/organisation. Some noted that the females in their firm/organisation generally worked harder and/or more efficiently than the men to ensure that they met their targets.

*“They’re more assiduous at ensuring that they meet their targets because they’re always working harder than the men to get to the same position.”* (Female, private practice, part-time, urban central Scotland).

*“My experience is that they [women] work just as hard and are just as committed.”* (Female, partner, full-time, urban central Scotland).

### **Evidence of Discrimination**

- 3.3.27 There was a general expectation or suspicion that part-time workers would be less likely to be promoted and recognised. Significant discussion was generated around this point, with some providing personal examples of what had happened to them, or anecdotal evidence of discrimination against others they knew. The



details of this are extensive and are therefore contained in Annex A. In summary however, they contained instances of:

- women being perhaps unfairly selected for redundancy, particularly when on maternity leave and without the necessary economic selection criteria applied;
- clear indications that taking maternity leave and moving to part-time hours would severely limit salary and career progression;
- unsuccessful job and promotion applications based on women's personal circumstances rather than economic and business reasons;
- instances of firms not recruiting any female trainees due to assumptions that they will, as some point in the future, take maternity leave;
- heavy focus on women's personal circumstances within interviews; and
- salary issues, both in relation to being paid less than male equivalents and being denied salary increases and bonuses due to working part-time or having part of the year out on maternity leave (i.e. salary increases and bonuses were not adjusted for part-time or time out pro-rata but rather withheld altogether).

3.3.28 There was a feeling amongst some female respondents, that due to the nature of the profession, women will rarely confront an employer over any unfair practices or issues of discrimination. Rather they will ignore it and carry on, or leave the employer and move to another firm/organisation. This was felt to compound the problem however, as the issue would not be tackled and would therefore persist. However, women felt it would be highly detrimental to their career to make a complaint or take any legal action.

*"I was told by HR, that the male partners didn't want to give me the job because I was getting married and would quite quickly want to start a family... I could have taken it further, but I felt if I did it would have damaged my career."* (Female, private practice, full-time, urban central Scotland).

*"I think there's an issue around not wanting to rock the boat. It's generally not an issue that people are prepared to raise or make a big fuss about. I think what would happen is if you got blocked you'd move somewhere else."* (Female, in-house, part-time, urban central Scotland).

*"As females I think we're often as much to blame as anybody else because we just get on with it rather than complaining or trying to change things."* (Female, partner, part-time, rural).

*"It'll take a crusader to tackle the problem, but no one wants to be a crusader because then no one will employ you."* (Female, private practice, part-time, urban central Scotland).

3.3.29 Others, however, wondered if some women hold themselves back from applying for promotions and/or partnership if they have had periods of maternity leave and part-time working as they have a lack of confidence, either in their ability to get the promotion, or more likely a lack of confidence in the judgements being made about them. Essentially, they won't apply at the same stages as full-time counterparts or those that have not taken any form of career break as they perceive that their application would not be successful.

3.3.30 This was confirmed by one female partner who was working part-time before and when she applied for partnership. She indicated that her decision to apply for this had been delayed because of how she thought she would be perceived by the partners. She essentially waited until she felt the partners could not refuse the application rather than applying earlier and more in line with other contemporaries.

*"It did affect my own confidence. I had to decide did I want to ask and was I prepared to, not necessarily fight for it, but at least put together a well-constructed argument, and was I ready in terms of what I needed to be doing at home in my personal life with my children." (Female, partner, part-time, rural).*

3.3.31 Another issue was around whether women strive for status or to achieve partner in the same way to men.

*"Women probably don't strive for status as much as men, I don't actually think it's as important to women. So I think it would be wrong to suggest it's purely because we're being kept down, I think it's partly because we're not trying to push up." (Female, partner, part-time, rural).*

*"I think if they want a partnership then they can get it, but so many of them don't want it, whether that's through duty because they feel they should be doing the childcare and are therefore doing the lesser hours or putting the husbands career first, or whether it's through lack of confidence because that can be the case with a lot of women." (Female, partner, part-time, urban central Scotland).*

*"In all honesty I think a lot of women don't want it [partnership]. That may be quite a controversial thing to say as a woman, but I do think that there are a lot of women that come to the profession and realise what's involved and decide that it's not for me, because there's a lot of management responsibility and it takes you away from actually doing law within your job in a lot of respects. I do think the family thing comes into it, because if you're raising a family and trying to reconcile being a partner I think that's very challenging, and I don't think that the part-time and flexible working really works that well when you're a partner." (Female, private practice, full-time, urban central Scotland).*

- 3.3.32 Other women who currently work part-time or other flexible patterns disagree with the idea that women are generally less ambitious however.

*“I intend to up my hours again at work... and I would apply for promotion again at that point. So I don’t buy the idea that because I have caring responsibilities that this somehow makes me less ambitious or committed.”* (Female, in-house, part-time, urban central Scotland).

- 3.3.33 Particularly for partner positions, one of the main criteria in the partnership agreement is that a partner will provide the firm with their full time and attention. Women working part-time find this difficult to evidence, and/or have concerns over how they will convince the other partners that they are in a position to be able to fulfil this requirement. A clause like this would be likely to make many women delay applying for partnership until they were able to return to work on a full-time basis, if they felt able to make such a commitment at all given that caring responsibilities still traditionally fall to the woman.

### **3.4 DISBENEFITS OF FLEXIBLE WORKING PATTERNS**

#### **Issues for those working flexible patterns**

- 3.4.1 For those working flexible patterns common difficulties were typically those outlined above, i.e. working full-time hours for a part-time salary; plus the (potential) negative impact this had upon salary increases and promotional opportunities. Other issues related to difficulties in being able to attend training, meetings, CPD, events, etc. as these can often be arranged for days they are not in the office.

*“Because you’re there all the time and if somebody is looking round for a face that fits, your face tends to be there more often than the part-timer and often part-timers are seen as being less committed, i.e. your family and your home life are more important than the job.”* (Female, private practice, full-time, rural).

- 3.4.2 Some who work part-time raised issues around meeting the Society’s CPD targets/required number of hours. Recent rule changes mean that part-time workers need to accrue the same number of CPD hours as full-time workers. Part-timers may face more acute time pressures in terms of trying to balance CPD requirements with deadlines and client pressures. As they have fewer hours available to get everything done they indicated that tasks must be prioritised, which can lead to part-time workers cancelling training in favour of meeting client deadlines.

*“One of my colleagues was doing two days a week and she was really struggling to get the [CPD] hours... It can be challenging, and there’s an element of me that says there’s a great three hour course on something really relevant to my job, however, I have x, y and z to do and the client needs it. So I have also had to cancel training. One of the big issue for*

*the part-timers in my office is trying to cram in the training.” (Female, in-house, part-time, urban central Scotland).*

*“It leads to people going on courses that are of absolutely no relevance to them.” (Female, private practice, condensed hours, urban central Scotland).*

- 3.4.3 Managing a team was also considered challenging when working patterns include an element of home working due to difficulties in managing a team remotely.

*“Managing might be quite tricky if you’re doing home working. I have a friend who does one day a week home working and she’s a manager of a small team, and she said that’s difficult... Just the difficulty of managing people if you’re at a distance, but then people do it, often from other offices, so it can be done.” (Female, in-house, part-time, urban central Scotland).*

#### **Issues for the firm/organisation/wider team**

- 3.4.4 General challenges were identified in relation to managing the business in the event of maternity leave and in coordinating part-time work patterns.

*“It can be quite hard to organise the business around. Especially making sure that we have continuity for clients.” (Female, partner, full-time, urban central Scotland).*

*“I guess it’s something that we would prefer if it were never asked for. It would be ideal if everyone worked full-time. Because as soon as someone requests part-time then there’s something you have to manage, although only initially, once that’s managed it flows through... The downside is just having to adjust the workloads and work patterns of the other members of the team to accommodate it but it’s not a real problem.” (Male, partner, full-time, urban central Scotland).*

*“We have someone off just now, and she was quite a critical person in the overall scheme of things, and combining that loss with the extreme upturn in workloads that we have had, it’s difficult to cope with.” (Female, partner, part-time, urban central Scotland).*

*“My working four days a week is something they [the firm] are still learning to work around despite me doing it now for over two years. It is something that has been accepted but I wouldn’t say it was necessarily welcomed, it’s more tolerated at the firm level.” (Male, private practice, part-time, urban central Scotland).*

- 3.4.5 Clients created another element of concern around facilitating flexible working arrangements. Issues in this respect were generally focused upon discontinuity and/or delays in the service provided to clients, and/or having certain clients that are not supportive of their case being dealt with on a part-time basis.

*“I suppose there can be occasions where there is discontinuity, there will always be occasions where somebody has been working on something and the client wants something on the day they’re not in and someone else has to pick it up.”* (Male, partner, full-time, urban central Scotland).

*“Clients are not receptive to chopping and changing people.”* (Female, partner, part-time, urban central Scotland).

*“Clients can stress about it, you have to make sure they’re working for clients who will accept it.”* (Female, partner, part-time, urban central Scotland).

*“Some clients don’t like it and they can get a bit frustrated if their solicitor stops at three o’clock in the afternoon and they can’t get them after that.”* (Male, partner, full-time, rural).

- 3.4.6 A further issue, but related to discontinuity, is that others in the team will have to pick up additional work for part-time colleagues on their non-contracted days. There can often be inefficiencies involved in this as it takes longer to accomplish tasks as people need to get up to speed with the case before responding, and/or time is required for handing over work before the part-timer becomes unavailable.

*“It means increased work for us, their clients invariably phone on the days they don’t work demanding something done... It involves an element of wasted time, trying to cover things when they’re not here.”* (Male, private practice, full-time, urban central Scotland).

*“For clients who want to contact them, if they’re not in the office on a given day, and if there aren’t proper notes and there hasn’t been a proper hand over then that can cause an issue.”* (Female, partner, part-time, rural).

*“There has to be a transfer of communication and knowledge between staff... there has to be time spent on the handover, which has to be done well or there is a deficit in the service.”* (Male, partner, full-time, urban central Scotland).

*“There is the discontinuity issue if you are not in, and there’s probably an element of double handling of some matters if you have to involve another colleague which is a business issue which will presumably have a monetary effect.”* (Female, partner, part-time, urban central Scotland).

- 3.4.7 A final problem/challenge faced by firms/organisations/teams facilitating flexible working patterns for some staff was the management of the relationship between the full and part-time staff. In particular, should there be resentment towards the part-time staff or a feeling that they are not *'pulling their weight'*.

*"I have heard full-time female colleagues feel that they have to pick up the flak for the mums that have to leave at a certain time."* (Female, in-house, part-time, rural).

*"From the teams point of view is that contacts and relationships don't necessarily recognise the fact that you don't work Thursday and Friday, and therefore they keep going and potentially generate work for others in the absence of the part-time person. That can obviously be managed, but the danger is that those working full-time perceive wrongly, that the part-timer isn't pulling their weight and that for those two days a week they're having to carry them a little bit."* (Male, in-house Director, full-time, urban central Scotland).

*"People do get a bit fed up if people are off all the time if their kid is sick, there is an understanding there but it is annoying."* (Female, private practice, full-time, rural).

### **3.5 RESULTS OF RESTRICTING FLEXIBLE CONTRACTS**

- 3.5.1 The culture of working additional hours and the blurring of full-time and part-time definitions also appears to be creating problems in the availability of condensed hour's contracts within the profession. A few respondents indicated that their firm/organisation did not allow this, whilst some also had experience of requests for this option being turned down. Generally, it was cited that condensed hours to allow one day off a week would not be fair on full-time colleagues as they were also putting in additional hours throughout the week but not getting either paid for these or an additional day off.

*"I am now paid less but still doing the same amount of work just over fewer days. I did ask for condensed hours but was told no, which seems a little disingenuous as I am doing full-time hours but I'm not being paid for it."* (Male, private practice, part-time, urban central Scotland).

*"I asked if I could work four days a week but condensing my hours..., eventually HR told me it wouldn't be allowed under any circumstances and said that I was already working a lot fewer hours than everyone else, so the only way that I would be allowed to do four days a week was if I worked part-time effectively earning 80% of my salary."* (Male, left profession, previously full-time, urban central Scotland).

- 3.5.2 Generally, where firms/organisations are seen to be reluctant to accommodate part-time and other flexible contract types or working options, they are losing staff. Many respondents, both male and female, who required the ability to be flexible in

their working patterns indicated that they had previously left inflexible/reluctant firms/employers to join those who would offer the flexibility they required.

*“If I couldn’t work flexibly in my current role then I’d prefer to leave and move somewhere that enabled me to work flexibly. If my current employer were to remove the ability for me to work flexibly I would look for another job.”* (Male, private practice, part-time, urban central Scotland).

*“I trained and qualified into a big firm, and worked there until I went off on maternity leave. And at that point I made a conscious decision that I would have to look for another job because there was no way that I could go back and work the hours that were expected of me with a child.”* (Female, private practice, condensed hours, urban central Scotland).

- 3.5.3 Perhaps an unexpected consequence, is that this is also an issue for those that do not yet require flexibility, but expect that they might in the future. A number of women indicated that they had moved firm/organisation in the past, in part due to their reluctance to provide flexible working practices. Although they did not yet have children they were conscious that one day they may want to have a family, and did not want to be working for a restrictive firm/organisation at the time. Therefore, many move to more flexible employers even before the desire/need for flexible working arrangements becomes an issue for them.

*“Having watched the discrepancy in salaries between male and female colleagues, in men being promoted over women when this was not fair, and women not being promoted because of pregnancy, I decided to leave this firm and work in-house. I’ve taken a hit in salary, but I knew even at one year qualified that if I ever wanted to have children this firm was not the place for me.”* (Female, in-house, part-time, urban central Scotland).

- 3.5.4 The respondent who had their request for condensed hours refused, indicated that they became significantly less motivated, less efficient, and ultimately had looked for alternative employment.
- 3.5.5 The culture of long hours, lack of availability of flexible working patterns, and the negative impact on the careers of those that require to work more flexibly were all mentioned as contributing factors by many respondents for leaving the private sector in favour of working in-house, particularly for public sector organisations.

*“It was actually one of the determining factors why I left the private sector, I don’t need to try to worry about getting fees in and entertaining clients outwith office hours.”* (Male, in-house, part-time, urban central Scotland).

*“There’s an element of personal choice in this as well... We benefit from having a lot of very talented women working for us, but they are attracted to us because of the work/life balance and not particularly wanting to do the high intensity corporate work... They have deliberately stepped out of that.”* (Male, in-house Director, full-time, urban central Scotland).

## 4 EMERGING WORK MODELS

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### 4.1 TACKLING THE OVERTIME CULTURE

- 4.1.1 A number of firms who indicated that they were able to provide their staff with reasonably good work/life balance, certainly in comparison to other private practice firms, stated that this was possible due to suitable resourcing. They considered that they employed a suitable volume of staff, with the right mix of skills and experience to realistically manage the workloads, and therefore avoided the need for extensive overtime.

*“We expect everybody to do what’s required to get the client work done, regardless of what time of day or night that is, but we resource our departments and teams such that it would be more unusual than not for somebody to have to work regularly significant hours at home or over the weekend.”* (Male, partner, full-time, urban central Scotland).

*“Because the norm for a working day is 8:30 to 6/6:30, then that’s how we resource the teams.”* (Male, partner, full-time, urban central Scotland).

- 4.1.2 Some partners/Directors indicated that they are very cognisant of the hours that their staff work and try to discourage extensive overtime.

*“The staff are the life blood of the firm... we’re only as good as our staff, and although we probably do work them quite hard during the day we are very conscious of pressure and we don’t want them suffering from stress... they don’t get paid at a level to deal with that level of responsibility, and we don’t want them off or ill because of their job, so I think we are a very caring employer towards our staff.”* (Male, partner, full-time, rural).

*“If someone is putting in ridiculous hours we would speak to them, it’s not good for them, so we keep a very careful eye on that.”* (Female, partner, full-time, urban central Scotland).

*“Another member of the team... almost seems to want to be the last person to send emails every evening. And that’s something I’m seeking to tackle as a management issue.”* (Male, in-house Director, full-time, urban central Scotland).

- 4.1.3 Some firms/organisations had a structure where partners or other team leaders were responsible for monitoring and/or allocating cases. They felt therefore, that their role also included, not just matching the needs of the client/case to particular team members, but also to ensure that a fair spread of work was achieved and that no individual was particularly over, or indeed under worked. They took a personal interest/responsibility in ensuring that no individual was working significant and



regular overtime, and would discuss such instances with individuals in an attempt to address any issues.

*“We have a capacity system, which is probably more geared to identify who has got spare capacity, and that operates essentially on a traffic light system across the UK teams. This should also help to ensure that those that are busy will not be given additional tasks that they don’t have capacity to take on, or allows people to find additional help if they need it.”* (Male, partner, full-time, urban central Scotland).

*“Every solicitor has a mentor, or somebody they report to, or somebody they’re working for, and it’s up to those mentors or partners essentially to keep an eye on workload. We’re quite small so we have close working relationships with all the staff, and our trainees are monitored regularly as well.”* (Female, partner, part-time, rural).

*“We have a policy where new work has to be filtered through the department head so that they have a complete overview, and the purpose behind that is to make sure that the work is fairly allocated throughout the team and that they right kind of work goes to the right person, and that we don’t give somebody a transaction that they’re not comfortable with.”* (Male, partner, full-time, rural).

- 4.1.4 There were also some managers, partners and directors that tried to act as role models for their staff in relation to the number of additional hours that they work, or are seen to work at least. They felt this was important in tackling the culture of excessive overtime that has become embedded within the profession and in encouraging staff to maintain a suitable work/life balance.

*“When we started we were quite determined not to make the mistakes we had made in other places and to lead by example for the other members of staff.”* (Male, partner, part-time, rural).

*“The bosses go home at closing time so that ensures there’s no culture of working late.”* (Female, partner, part-time, urban central Scotland).

*“I think I have to be a role model, I have to be seen not to be working all hours... I should be working hard, I have to be seen to be doing that and demonstrating commitment, but not by working excessive overtime.”* (Male, in-house Director, full-time, urban central Scotland).

- 4.1.5 Some firms only provided remote access to work files to partners. More junior staff could be provided with a work laptop on an ad hoc basis, but they were not routinely set-up with the ability to work from home or provided with work based phones. This provided data security benefits for the firm, but also acted as a safeguard for staffs work/life balance; by making it harder to work from home they found that this was only done when necessary rather than simply as routine. They

felt that this also sent the message to staff that they were not 'expected' to be contactable or working out of hours.

*"Not many people have laptops, but you can login remotely so there is the availability to work from home if you need to. Only the senior people have the phones so you're not expected to be available all the time."* (Female, partner, part-time, urban central Scotland).

- 4.1.6 One respondent indicated that their firm/organisation implemented a policy that data roaming should be turned off whilst people are on annual leave so that they cannot check emails, etc. This policy applied to all levels of staff, including partners.

*"We have a rule that the office manager turns off data roaming so that we can't get emails because it was felt that if you're on holiday you shouldn't be disturbed by work emails on your phone. You can still get the emails on your laptop, but you have to take this with you, switch it on, etc. which creates a bit of a barrier and means you're less likely to do it. And it means you're not hearing your phone pinging at you all the time."* (Female, partner, part-time, urban central Scotland).

- 4.1.7 Another described how their firm managed clients' requirements for an out-of-hours service without placing excessive burdens on staff. They worked in a sector where clients may face emergency situations in the evenings or over the weekend. Rather than clients being provided with their own solicitors contact details they were provided with a 'hotline number' which would take them through to a work mobile. This mobile belonged to one of the partners in the firm with responsibility for that sector, so it meant that all staff under them could take proper time out from work in the evening and over the weekend. Whilst this one partner always had responsibility for this hotline they suggested that the other more senior staff would feel happy to take on this responsibility on a rota basis; as long as they knew they would be on call for a given weekend they felt this would still be more desirable, more manageable and less invasive than the alternative of their clients trying to contact them directly.

*"Clients are able to contact our hotline at the weekends if they need to. A lot of our clients work the weekends due to the nature of their jobs/sectors, so they might need advice immediately. My boss, who's the head of that department would usually deal with that... but we would all be willing to take a shot of it to give each other a break, because you know you're not going to get it every weekend. I think it's a good idea, it keeps the clients happy, and if there is something urgent they don't have to wait until Monday morning... but also each individual solicitor is not essentially on-call all the time."* (Female, private practice, full-time, urban central Scotland).

- 4.1.8 In a similar vein, one partner described how issuing clients with their mobile number can result in text messages at any point, day or night. They indicated that only the partners within their firm generally issued mobile numbers to clients and that other grades of staff were discouraged from doing this to ensure that when they are not in the office, e.g. whilst on annual leave or non-contracted days, then they are not being disturbed.
- 4.1.9 Some firms and organisations (including public sector, commercial in-house roles, and some private practice firms) offer flexi-time to ensure that overtime is rewarded/acknowledged.

*“What we tend to use is flexi-time instead of overtime, but I have certainly paid overtime and I don’t have a problem with it.” (Male, partner, full-time, rural).*

## **4.2 FACILITATING FLEXIBLE WORKING LOCATIONS**

- 4.2.1 Some had the contractual ability to work from home one day a week; although there was little evidence of more extensive home working. Only one firm indicated that they employed staff on the basis that they would work from home, with one staff member apparently based from home rather than the office, and one other working part of their week from home and the other part in the office.
- 4.2.2 Home working was however, fairly commonplace and accepted on a less frequent basis, for example to facilitate appointments or waiting in for workmen, etc. This was seen as beneficial for both the individual and the firm/organisation in that there was not a ‘lost day’, and that the individual was still contributing and contactable.
- 4.2.3 Others also felt there was a benefit in being set-up for remote access to files etc. as it allowed better use of their time throughout the day. They felt that they were now able to make constructive use of what would otherwise have been ‘deadtime’, for example on train journeys, etc.

*“Being able to link in to everything we have in the office from my house is the biggest benefit... And to have emails on my phone is a benefit as it allows me not to increase the time I spend working, but it allows me to fill gaps in time, for example at the train station waiting on the train, it means I can fill these five minutes responding to emails rather than counting trains or something. It fills up the day rather than extending it.” (Male, partner, full-time, urban central Scotland).*

- 4.2.4 Those with young families also found the ability to work at home a great benefit in being able to complete work from home in the evening. This was considered to be a benefit by both full and part-time workers. They felt that this allowed them to stay on top of their own workloads where staying late in the office would not always be possible, and meant that things did not have to be passed to other colleagues to be finished.

*“Rather than having to leave things... something that I’ve almost finished and I’m just about there, trying to pass that on to a colleague, whereas I could take that with me and take half an hour to finish it once the kids are in bed, yes I think that is a benefit to the team and my organisation.”* (Female, in-house, part-time, rural).

*“Everything’s accessible which allows me to work flexibly, so I can be where I need to be.”* (Female, private practice, part-time, urban central Scotland).

*“I think it’s very much a positive thing, but in an odd way in that you do actually do more hours, but doing these hours is much easier as you can do it from home and flexibly.”* (Female, private practice, full-time, urban central Scotland).

### **Benefits of Technology**

- 4.2.5 The greater use of technology and the ability for various systems to be linked was considered a significant benefit for those that worked from multiple office locations. These staff found it a substantial help to be able to access the relevant files regardless of which office they were working in. It enabled them to be more productive and reduced the stress involved in working from alternative locations.

*“We’ve got a lot of people that need to work from other offices on occasions, and those that need to work from home for both childcare reasons and to look after their parents. Technology provides people with the ability to be able to do that.”* (Male, private practice, part-time, urban central Scotland).

*“We work across two offices, so I can sit in one and do a digital dictation and then send it to my secretary in the other office to type it up, so we don’t have to be sitting with her outside my door all the time.”* (Male, in-house Director, full-time, urban central Scotland).

- 4.2.6 Some also highlighted that the improvements in video conferencing were invaluable in supporting flexible working; it helped to make home working more viable on a more formal basis. Staff could still fully engage in business activities such as training and meetings without the need to physically attend the office.

*“With the advent of video conferencing you could work from home and still participate in a meeting... So the ability to work remotely and have meetings remotely I think would be very beneficial to those who have young children.”* (Male, in-house, part-time, urban central Scotland).

- 4.2.7 Some mentioned that new technology and technological advances can help to cut down on company overheads. This included, for example, reducing the need to travel between offices, or providing electronic access to materials such as legal publications without the cost of purchasing the hard copies, etc.

*“The internet allows access to get legislation and cases, etc. This is infinitely better than it was when I started. You no longer need the situation where every firm has a library, where often the books were out of date... This can save firms money and provides quicker and easier access.”* (Male, in-house, part-time, urban central Scotland).

- 4.2.8 Many indicated that technological advances had provided quicker and often more efficient ways of conducting business.

*“It’s a much better way to work and much quicker as well. Communication is much faster and more efficient... We don’t need quite so many meetings with clients as we used to as emails have taken over and the clients prefer this as well as they don’t have to come in and see you as often. It creates a greater record of the transaction as well as the emails are electronically stored, which can be helpful if there’s a problem or complaint, allowing you to check what you have been instructed to do.”* (Male, partner, full-time, rural).

*“Management reporting, accounting, spreadsheets, budgets, all that kind of stuff is a big benefit.”* (Male, partner, full-time, urban central Scotland).

- 4.2.9 Many also highlighted the extent to which technology had impacted upon the speed of doing business. There were mixed views as to whether this was always a positive or negative impact however.

*“Technology allows you do things for clients more quickly than it was done before, whether that helps us I don’t know, but it certainly helps clients.”* (Male, partner, full-time, urban central Scotland).

*“It’s speeded up enormously the timescales in which everything gets done, and in which it is required to be done by clients, etc. so there’s a huge acceleration in the speed of transactions. I think it also increased the complexity of transactions though, with increasingly powerful computers it’s possible to go into ever deeper levels of complexity than when you had to write things out by hand.”* (Male, partner, full-time, urban central Scotland).

## 4.3 FACILITATING MORE FLEXIBLE CONTRACTS

### Benefits for the Individual

#### 4.3.1 Personal benefits of facilitating part-time or other flexible contracts included:

- allowing some to continue working within the profession who would otherwise have to leave if part-time/flexible options were not available;
- allowing people the ability to work the way that best suits them;
- greater personal well-being and less stressful; and
- better work/life balance.

*“It has kept me in the profession... I spent six years at university doing law, I think I have something to give and I don’t want to be drummed out of the profession just because I have had children.”* (Female, in-house, part-time, urban central Scotland).

### Benefits for the Team/Firm/Organisation

#### 4.3.2 Not only are there positive benefits to the employee, it was also found that there are considered to be a number of positive benefits for teams and departments, as well as firms and organisations accommodating the array of flexible working arrangements.

#### 4.3.3 The main benefit discussed was that it facilitated the retention of highly skilled and experienced staff that have often been invested in heavily in terms of training, etc. It also allowed the continued contribution from experienced staff, and some felt that it also encouraged staff loyalty.

*“Retention of staff that are good at what they do. Otherwise we would have a genuine loss of skills and ability in the practice.”* (Male, partner, full-time, urban central Scotland).

*“You hold onto people that you’ve trained, because that’s a huge investment. And if somebody is good you really don’t want that to go to waste.”* (Female, partner, part-time, urban central Scotland).

*“It means that people who are very experienced can still contribute that experience to the firm.”* (Female, private practice, full-time, urban central Scotland).

*“You’re going to get a better qualified and more experienced profession, with a greater overview of the realities of life. I’m sure that my advice will have changed over time with my experience. I give better advice more quickly now.”* (Female, in-house, part-time, urban central Scotland).

*“As my organisation are so good at embracing flexible working they have saved a lot of money. Although I’m about to reduce my hours I’m getting more skilled and quicker at my job and more efficient.”* (Female, in-house, part-time, urban central Scotland).

*“There’s huge benefits to the employers because they’re getting a level of experience and loyalty that doesn’t really exist in the marketplace anymore, and that gives them a lot of comfort, and they still feel that they don’t need to remunerate that.”* (Female, private practice, part-time, urban central Scotland).

*“It is a two way relationship, so if you respect that they need time in their life to spend time with their children or whatever they’re doing, and if that can be made to work within the team then they tend to respect you back and repay you in the long-run. I take a bigger picture perspective on that, but I think that some of the bigger corporate natured law firms that I’ve experienced where they are intolerant of that, they rather shoot themselves in the foot actually.”* (Male, in-house Director, full-time, urban central Scotland).

- 4.3.4 A significant number of respondents also indicated that allowing this flexibility resulted in happier, more motivated staff who were often also more productive and efficient. It was also suggested that it provided a more diverse workplace by allowing the inclusion of people at varying stages of life, with varying external interests and commitments. They felt that this provided a nicer work environment.

*“Ironically you can find that when they go part-time they actually manage to do more work than they did compared to full-time.”* (Male, in-house Director, full-time, urban central Scotland).

*“Sometimes as a part-time worker you find there is less time for faffing around at your desk and that you are much more productive.”* (Female, in-house, part-time, rural).

*“Part-time workers appear more productive, focussed and driven, possibly due to a perceived need to prove themselves as they’re not ‘on the ground’ full-time.”* (Female, sole practitioner, part-time, urban central Scotland).

*“I often do think you can get a lot more from part-time members of staff than you would from full-time members of staff because when they’re there they’re there and they’re on it, whereas when you’re full-time and you know you can spend all night on something then you’ll end up spending all night, but part-time staff can be very efficient at getting the job done.”* (Female, private practice, full-time, urban central Scotland).

*“For the team, you get a happy settled workforce who know where they are and suit their lives... A happy workforce is a productive workforce.”* (Female, private practice, full-time, rural).

*“As far as the business is concerned then the happier the workforce is the more productive it is, working in an office that is unhappy is not a nice place to be, so the more positive people are about it the better it is for everybody.”* (Female, private practice, full-time, rural).

*“It makes it a more diverse workplace. It’s more balanced and a nicer atmosphere to have people who are not wanting to spend 100% of their time in the office, I don’t think that’s healthy.”* (Female, private practice, full-time, urban central Scotland).

*“In most instances people will generally be very experienced, so to have them return even on a part-time basis is great, both for junior people like myself to have the role model and the supervision of a very experienced solicitor, and also the general atmosphere in the team. There’s also the efficiency that they bring, and their commitment to getting the job done.”* (Female, private practice, full-time, urban central Scotland).

- 4.3.5 A few also highlighted the economically advantageous side to providing part-time roles.

*“It keeps costs down if you’re only paying them for what they want to work.”* (Female, sole practitioner, part-time, urban central Scotland).

*“Part-time roles can be really useful when you’re recruiting to fill a gap in the team, if you stop and think about what you need you may find that all you really need is someone part-time rather than a full-time person... So you are able to fulfil a function or bolster up a team without having the full cost of a full-time employee if that’s not what’s required.”* (Male, in-house, full-time, urban central Scotland).

- 4.3.6 Most indicated that, in their experience, most part-time staff were just as dedicated to their work as full-time colleagues, putting in additional hours from home. This however, appeared to often be overlooked when considering career prospects for part-time workers, as discussed above.

- 4.3.7 Those working flexibly, where this has been fully supported and accommodated by the employer, are generally happy to be accommodating in return, for example changing working days when required, etc.

*“If I find that I have to work on a Friday although this is non-contracted day, I’m happy to be flexible on this as my work were completely fine with accommodating my flexible working pattern. It’s only fair that they can get out of me what they gave to me.”* (Female, in-house, condensed hours, urban central Scotland).

*“I think there’s a lot more trust between members of staff and employer/employee when it’s all openly discussed and not hidden, and it allows for flexibility so if you give part-time staff enough notice to ask them*



*to change their days one week they will generally do it.” (Female, private practice, full-time, urban central Scotland).*

*“If your staff are happy they work harder and if you are good to them and give them the time off when they need it... if you ask them to come in and do something then they will do it.” (Male, partner, full-time, rural).*

- 4.3.8 It was also suggested that there are wider benefits in being seen externally as a flexible employer. Respondents felt that firms/organisations would be able to attract the best people in terms of recruitment.

*“Getting the staff and solicitors that you want... It’s hard for us to capture solicitors in that 25 to 35 age category because we’re a small rural firm and they all think that life in the big city is more exciting. The people we’re looking for therefore are people with young families who are settled here, so we have to accommodate part-time.” (Female, partner, part-time, rural)*

*“Our firm recognises that that’s the way of the world and you either embrace it and run with it, or you’re at risk of not attracting the best talent, because the best talent these days are looking for that flexibility.” (Male, partner, full-time, urban central Scotland).*

### **Examples of Best Practice**

- 4.3.9 Some firms/organisations appear to have well thought through procedures for requests for, and agreement to flexible working patterns. This included support for others in the team so that the full-time staff do not become over-burdened by having to ‘pick up the slack’.

*“We rarely refuse requests nowadays, so in most cases it would be discussed. HR would lead on that, discuss it with our Chief Executive and the department head to establish it, to scope it out and put the relevant system in place. Inevitably work will need to move to other staff but that’s not a problem as we largely work in teams, and if necessary we would recruit additional staff.” (Male, partner, full-time, urban central Scotland).*

*“We would look at the capacity within the team to see if workloads could be rejigged, so if someone else’s workload is coming down could they perhaps take on a bit more to accommodate the part-time request. If we needed to we would look to recruit... It might be that we can’t always do what the employee has asked for but we’d work with them to identify something different that would work.” (Female, partner, full-time, urban central Scotland).*

- 4.3.10 Many firms offer employees the technology to allow them to work from home in a fully operational manner, providing laptops, smartphones/Blackberrys, printers, scanners, tables and chairs, etc. A few respondents indicated that they just had to

tell their firm what they needed and this would be provided and set-up for them. This meant that solutions were flexible and met the needs of each individual.

*“I walked in to this firm two years ago and was handed a laptop and an iPhone, but to go from one of the biggest firms in Scotland to a tiny and fairly new firm and be handed everything to make your job easier!” (Female, private practice, condensed hours, urban central Scotland).*

- 4.3.11 A key example of best practice was related to the willingness of firms/organisations to be fully supportive of flexible contract options and working practices, both in relation to offering these options and in supporting those that choose to work this way. It was seen as highly important that employers were not closed off to ideas and suggestions around the options. They felt that the attitude of firms should be, that as long as the clients were not ‘truly’ negatively affected (as different to being ‘perceived’ to be negatively affected), then there was no reason to reject any flexible working options. They indicated that they had conducted meetings via both video and telephone conference from home, and often the client did not know the difference, or were indifferent to their solicitor’s location. This new technology could be exploited more to facilitate the needs of those within the profession and to support the desired for more flexible working patterns, rather than simply being seen as an aide to extend working hours or conduct business internationally.

*“Another example of best practice is my current manager. He has let me say what my best working patterns will be and has tried his best to accommodate it.” (Female, in-house, part-time, urban central Scotland).*

*“They’re not closed off from it, they’re very open to ideas. And as long as the clients don’t suffer or notice any difference they’re really not bothered. I’ve done meetings by conference calls when I would have gone into the office, but was encouraged by the firm to use conference call facilities as they felt the clients weren’t going to mind.” (Female, private practice, full-time, urban central Scotland).*

- 4.3.12 Respondents suggested that it was important not to hide the fact that solicitors work part-time. In their experience, as long as clients know up front what to expect there is generally less/no problem. However, they indicated that there was a general impression that the profession still tries to hide the existence of part-time working from clients.

*“The key is that they are open with clients about our working hours, it’s not hidden that we have part-time staff. I find that in a lot in traditional law firms they do hide that they have staff who are part-time, and I don’t think that’s fair because clients generally understand the need for part-time and as long as they know they can get a hold of someone else or can contact them in some way if they are not working in the office then they have no issue with it.” (Female, private practice, full-time, urban central Scotland).*

4.3.13 Another suggested that best practice in their firm was that some of the partners were on part-time hours, and therefore firm ethos around part-time and more flexible working arrangements were led from the top. Similarly, one respondent indicated that they have a mix of partners working a mixture of hours and working patterns and covering a mixture of responsibilities to fit with their availability. This included a number of female partners, including both mothers and single mothers.

*“We have a female partner who went part-time after she had her children, so it’s very much led from the top in our team.”* (Female, private practice, full-time, urban central Scotland).

4.3.14 Whilst not necessarily considering it personally to be best practice, some also highlighted their firm’s practices in ensuring that workloads are fairly split, and ensuring that no one, full or part-time, is overloaded.

*“I don’t feel like I am overloaded, it is difficult for employers to get the balance of work correct, it’s a matter of keeping it under review.”* (Female, in-house, part-time, rural).

4.3.15 Again, whilst not specified as best-practice, one respondent also noted that their organisation now spread training, CPD courses, team meetings, etc. over the full working week rather than concentrating delivery of these on the same weekday each time. This ensures a fairer spread and equal opportunity for all employees to attend.

*“Work have had to come up with a fairer approach to CPD organised within the workplace, because it always used to be on a Friday which is no use if you don’t work on a Friday. They now spread it across all days so that everybody gets a fair crack at the whip.”* (Female, in-house, condensed hours, urban central Scotland).

4.3.16 In instances where a reduction in a person’s workload has to be considered, best practice involved consideration of how to minimise any workload increases on the rest of the team. In order for there to be no animosity between full and part-time colleagues, the move to more flexible hours for one individual needed to be accommodated and manageable for the whole team. That’s not to say that the request should be turned down, but more that serious thought needed to be given to methods of restructuring and perhaps more innovative and flexible ways of working, as well as a degree of give and take on both sides.

*“Definitely they have recruited over the years if there was a gap in the team, but I wouldn’t say it would be automatic... What we tend to do is gradually wind down the workloads of those going on maternity leave or something, so when they do go off they maybe only have two or three things to pass over to people which is completely manageable. So it’s very much planned and managed.”* (Female, private practice, full-time, urban central Scotland).

*“I’m able to give our part-timers work which is generally not time critical, either that can be done within the three days, or where the client is aware of the longer term nature of the work and/or where they are happy to work within the part-time structure of their hours.”* (Male, partner, full-time, urban central Scotland).

4.3.17 An example of best practice, identified by one respondents was that their employer provided a work based nursery. Whilst this will not be possible/practical in all workplaces, it is perhaps an option that could be explored more often by large city centre firms. Also, there may be increased opportunities for businesses co-located in the same buildings/blocks to share the provision of such a facility.

*“As an example of best practice, there’s a nursery in my work for employees. It’s excellent... So there is very much a clear encouragement that childcare is there and there will be working parents in the office.”* (Female, in-house, part-time, urban central Scotland).

### **Job Share**

4.3.18 There was little evidence of extensive job sharing prevalent within the profession. Some suggested that whilst certain roles within their firm/organisation would be suitable for job shares these were generally restricted to non-qualified staff. There was a general feeling that job sharing would be largely unworkable for qualified solicitor roles. This was partly attributed to the difficulty in matching up suitable personalities, but also linked to the time that would be required to undertake a suitable hand-over of cases/tasks each week. There was also a suggestion that, unless working styles matched then there would inevitably be some duplication of effort (e.g. reworking of documents etc.). Some did acknowledge that, in general, solicitors tend to be rather protective and controlling over their cases, preferring not to delegate to others (which is perhaps also contributing to the overtime culture discussed earlier). Therefore, this was not simply a case of firms/organisations being reluctant to embrace new working patterns, but also a reluctance from individuals to consider this as a viable option for themselves.

4.3.19 A few respondents did, however, indicate that job sharing had happened in their firms/organisations. In one case it had been considered a complete failure. However, in others it was considered to be largely successful and beneficial, both to the individuals involved and for the wider team and firm/organisation. In both cases, the success or failure of such contract types was attributed largely/entirely to the personalities, good working relationship, and compatible working styles of the two people involved in the job share arrangement.

4.3.20 In the successful example, it was highlighted that the two people concerned were fully supported by the team/management and were able to overlap their working days/hours in order to conduct a full and proper hand-over without any concerns about ‘wasted time’. The individuals concerned were also prepared to be flexible in covering each other’s time off (e.g. sick leave, annual leave, time out for appointments, etc.). This meant that there was always availability and cover in this

role, probably to a greater extent than was possible for any other full-time or part-time role, suggesting significant benefits for clients and the firm/organisation.

- 4.3.21 This option appears to have been poorly explored and supported within the profession to date, and there may be opportunities to further develop this. If more people considered job sharing as a viable option this may increase the pool of applicants and increase the possibility of matching suitable job share partners. To be truly successful however, it's likely to require a cultural shift in attitudes towards workloads and ownership of cases, which is likely to be far more difficult to achieve.

#### **4.4 THE ROLE OF MEN IN FLEXIBLE WORKING**

- 4.4.1 Increasingly, men desire an active role in the childcare responsibilities and want to be more 'hands on'. Some also indicated that their wives have careers and in some cases earn the higher salary, therefore it makes more sense for their family situation that the man takes a part-time role to accommodate childcare.
- 4.4.2 Even when part-time working is not required, men with young families appreciate the ability to get home in time to spend some time with their children and then, if required, start work again in the evening. New technology allows this flexibility as it becomes possible to complete this overtime from home.

*"I know a lot of men would like to have a more active role in childcare and their children's lives, so they should be given the flexibility that allows them to do it. So I think it [flexible working] should be offered equally across the board."* (Female, private practice, full-time, urban central Scotland).

- 4.4.3 There was also a perception that male solicitors now value their work/life balance to a greater extent than in the past, whether this is for childcare reasons or not. A number of male respondents indicated that they had interests they wished to pursue outwith law, and so increasingly there is a demand from men in the profession for greater flexibility. It may however, be that flexible working options are still generalised as solutions to accommodate women within the profession, therefore making it harder for men to have access to equal provision.

*"I think that had I been female and just had a child and wanted to condense my hours rather than go part-time, I would probably have been allowed to do so. I think because I had asked though they just thought I was wanting a day off. I'm all for part-time and other flexi-time working, but it should be for everyone."* (Male, left profession, previously full-time, urban central Scotland).

*"Finding a private practice firm that offers more flexible working patterns is very difficult, very few of them do it. There was a genuine desire from people at my level for any kind of flexible working because there was nothing."* (Male, left profession, previously full-time, urban central Scotland).

## 5 OPPORTUNITIES FOR THE FUTURE

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### 5.1 TACKLING THE OVERTIME CULTURE

- 5.1.1 The research highlighted the culture of excessive hours that has developed across the profession. Whilst many were reasonably satisfied with the hours they worked, this satisfaction was generally restricted to those that have either managed to maintain a reasonable work/life balance and avoid truly excessive overtime being required on a daily basis, or was expressed by those who willingly engaged in extensive overtime, either to progress their career or because they felt their salary/benefits package compensated for this.
- 5.1.2 There was, however, a fairly significant proportion of respondents who were dissatisfied with the excessive hours that were required, both on a formal overtime basis, and the informal basis that has been introduced with the developments in technology. A common suggestion from respondents however, was that they felt the only way to ensure the culture of extensive overtime is eradicated was to force firms to pay for the hours being worked.

*“If we’re serious about having a work/life balance then the one way to force employers to respect that is that you have to pay for what you get, and on a proper hourly salary rate and not an end of year bonus which they can set to anything they like as it’s invariably less than you should be due.”* (Male, in-house, full-time, urban central Scotland).

*“It’s something that needs to be applied strictly across the board, so if the profession does want to change and be more welcoming to those people who don’t want to dedicate the entirety of their lives to the law, then they need to have a top-down restructuring, telling staff they’re working nine to five and that is it. There will be times when something does need to be done, but if you’re doing extra then you should get paid extra or time off in lieu.”* (Male, left profession, previously full-time, urban central Scotland).

- 5.1.3 One respondent felt that any firm prepared to take the lead on tighter management of working hours and the provision of truly flexible working patterns would, however, benefit greatly from competition between solicitors wishing to be employed there.

*“It’s going to be a brave firm that does that [more strictly manages hours worked and offers flexible working patterns], but then people would go and work for them. If one firm was to do it they would be inundated with applications from the brightest people to go and work for them.”* (Male, left profession, previously full-time, urban central Scotland).

- 5.1.4 One respondent also felt that this was an issue that the Society could assist in tackling.

*“The Society could take a position on this... ethically there are obligations on capacity... The Society is aware of a concern in working hours, yet it will punish the individual solicitor if they breach their ethical obligations, for taking on too much work or for which they have no capacity. The Society could equally put pressure on the firms.”* (Male, in-house, full-time, rural).

## **5.2 INCREASED FLEXIBILITY FOR ALL**

- 5.2.1 Whilst there was generally widespread support for facilitating and supporting part-time roles, the prevalence of other flexible patterns was far less common. Some firms did embrace this in the same way as part-time working, allowing flexible start and finish times, home working or working from alternative offices on certain days, flexibility over which days would be taken as the non-contracted day for part-timers, condensed hours, and term-time working. Other firms however, were still not engaged with these wider options, either due to fewer requests for this type of flexibility or due to persisting negative views of the difficulty of managing such work patterns. It appears that acceptance of these forms of flexible working have yet to catch up with that of part-time working.
- 5.2.2 Although flexible working patterns were historically implemented to accommodate women with dual caring roles within the workplace, most felt that this flexibility should be equally available to all, regardless of gender or reasons for requests. Men are generally more interested in family/caring commitments than ever before, whilst increasing numbers of women now have careers rather than simply just jobs and can often be the main breadwinners in households, etc.
- 5.2.3 Also, the new allowances for sharing maternity/paternity entitlement between both parents has implications for the future, with the potential for increases in requests for flexibility from males.

*“I think the profession as a whole is beginning to realise that if it employ a lot of women they will be taking time off and increasingly men will now as well for paternity leave, shared leave and stuff, a good firm should be able to work around that.”* (Male, private practice, part-time, rural).

*“A lot of people, and male colleagues are working part-time and alternative working patterns now, it is increasingly becoming the norm.”* (Female, in-house, part-time, rural).

- 5.2.4 Men and women are generally equally appreciative of flexible practices. Although there is perhaps less requirement for the more formal contractual level of flexibility for men, the ability to work from home on occasions (e.g. if waiting in for workmen, or to accommodate personal appointments), and to be able to complete tasks from home in the evening is beneficial to all and should not be viewed simply as a concession for working mothers.

*“Yes, it means that if there’s a snow storm or someone’s child is sick it means you can now work from home so these things can be worked around. So there’s a huge benefit there because otherwise those would be lost days.”* (Female, private practice, full-time, urban central Scotland).

- 5.2.5 Many also highlighted the benefits technology can bring in making all elements of the working day more productive. For example, laptops and smartphones allow train journeys etc. to become productive.

*“It means that you can spend time maybe on the train dealing with emails, or if I’m working on a presentation or something then I think I could be doing this in my living room with my slippers on.”* (Female, private practice, trainee, full-time, urban central Scotland).

*“If people are smart they can work on the train or the bus and therefore save their quality time at home... I can dictate things into my iPhone and have it sent straight to my PA who produces a document for me to check, all whilst I’m on the train, which is brilliant.”* (Male, in-house Director, full-time, urban central Scotland).

*“It’s very very helpful. Being able to get in touch with someone who is out of the office; there are plenty of things that have gone ahead or gone to completion much more efficiently and much sooner than they would just because someone can look at an email whilst they are in court or wherever.”* (Male, private practice, full-time, urban central Scotland).

- 5.2.6 Further benefits that technology has introduced is the efficiency with which legal documents can be drawn up and updated/amended. Respondents cited how computers allow this process to be completed much quicker as templates can be created, elements can be copied and pasted between documents, etc. However, some cautioned that this ease has led to overly complex and lengthy documents being produced, simply because it is easy to do. They recounted how, previously they would have to dictate documents to be created by typists, and each iteration of a document would require the entire document to be retyped, they noted that this ensured that documents were concise and entirely relevant. However, the ability to simply copy and paste, they felt, had led to documents becoming longer, including less relevant content, etc. This may be an element that the profession will need to consider and work hard to keep in check.

*“I think the documentation, because you create them so much more quickly they get bigger and bigger. It’s easier to keep adding further provisions to a document when it can be done electronically. Previously, I think you tended to work in a much more focused way as far as drafting was concerned, because sticking in an extra six lengthy clauses was actually a bit of an exercise, so you put your mind to getting it all into one extra clause. But now you can cut and paste and edit very easily, and have added two more pages instantly, and this process has gone on and on. Now things are much longer say compared to twenty years ago, but if*



*you look at equivalent documents carefully it's hard to see really why the longer more complex one gives either party any real benefit.” (Male, in-house, full-time, urban central Scotland).*

### 5.3 EXPECTED ‘NORMS’ FOR FUTURE WORKING PATTERNS

- 5.3.1 There was a general expectation, or hope at least for some, that as more women are now entering the profession an increase in the prevalence of flexible working patterns will be inevitable. They expect to see a significant rise in the prevalence of part-time working, use of condensed hour's contracts, the ability to formally work from home on particular days, etc.

*“I think it's inevitable. I think there'll be an awful lot more flexibility in the working hours, I think there'll be an awful lot more working from home. I think there'll still be a need for an office environment but I think it could be an awful lot different from what we've got here at the moment.” (Male, partner, full-time, rural).*

*“In terms of flexibility I think this has to be the way to go. I don't see any other way than trying to foster teams where people do operate flexibly and feel empowered to operate autonomously” (Male, in-house Director, full-time, urban central Scotland).*

*“There will still be a need to achieve targets, but I don't think firms are likely to be too bothered how or where this is achieved.” (Female, partner, part-time, urban central Scotland).*

*“I think that there are so many in the profession now who have essentially grown up with it [seeing flexible working patterns] that this will be our expectation when we get to our mid-thirties and forties. That's what we will have been used to seeing and it will be totally normal and not commented upon.” (Female, private practice, full-time, urban central Scotland).*

- 5.3.2 They expected that as the older generation, with traditional and male centred ideas of the nature of the profession and working patterns are replaced by the newer generation, which should include greater numbers of women within the ranks of partner, and where males have a desire to be more hands on with childcare responsibilities, then there will be greater acceptance and support provided to flexible working options.
- 5.3.3 However, a few did not see the male/female dynamic changing of for more women to be entering the top paid roles. They indicated that more women had been entering the profession for a significant number of years, but that there has yet to be an equivalent shift in the profile of those in these top positions.

*“It would be lovely to think there could be more flexibility, but I almost see it going in the opposite direction. If you have five people applying for a job*

*and four of them are women of child bearing age and the fifth is a man, who are they going to hire nowadays? I think it's still an issue.”* (Female, partner, part-time, urban central Scotland).

*“But when you look at most partnerships, particularly in the big firms, who are the people becoming partners now, it's almost all men still.”* (Female, partner, part-time, urban central Scotland).

- 5.3.4 Respondents also highlighted that technology now offered greater degrees of flexibility in working location, and rather than simply being used to facilitate ever greater levels of overtime, it can also offer greater flexibility in location over the course of the working day. Therefore, there was little reason, in some sectors at least, why increased home working could not and should not be accommodated. Again, there was a feeling that this would become more common place. However, there was also a strong feeling that the nature of the profession meant that central offices will always be required, and therefore, there will always be an emphasis on the office location as the place of work, albeit that there may be increased allowances made for/acceptance of regular patterns of home working.

*“Although there is some degree of working from home I still think that the office is the place where things happen, where you talk to people and have the support of your colleagues, you meet clients, you go out for lunch and network, so from that point of view I think the office is still the place that most of the work will happen.”* (Female, sole practitioner, part-time, urban central Scotland).

- 5.3.5 It was also felt that the nature of the work an individual or firm undertakes may also determine the extent to which work patterns will change.

*“It depends upon the nature of the work, a lot of the work that we do involves working in teams... so it requires close collaboration and that will probably have the result that people will tend to work together in the same place if they can rather than remotely.”* (Male, partner, full-time, urban central Scotland).

*“I don't think that clients will be a reason for that not to happen [remote and home working] because technology will allow for the same level of service to be delivered, even if they are linked up electronically. I think it will be more driven by what people want to do.”* (Male, partner, full-time, urban central Scotland).

*“I think it probably will become more flexible. But it is difficult, clients are so demanding, and they certainly expect you to be there during the working day. You don't have to be in the office, it doesn't matter where you are, but they expect you to be able to get back to them very quickly.”* (Female, partner, full-time, urban central Scotland).

- 5.3.6 There was a concern however, that whilst more flexible patterns may become more accepted and 'normal', that this flexibility for the individual solicitor will be restricted to where they can complete the work. Respondents worried that, as it is likely that there will be an expectation to be available during the working day, then the number of hours worked was unlikely to change, and instead technology was ensuring that the culture of excessive overtime would continue. However, this technology would also allow individuals greater ability to complete work in the evening/at weekends, etc. from locations other than the office. Their concern was that the flexibility would only work one way, with the technology forcing them to work ever increasing hours.

*"I see that as causing an increase in working hours and an expectation of ever increased commitment to the office." (Female, in-house, part-time, urban central Scotland).*

*"I think that we will have more part-time working and flexible working but at the same time that will be accompanied by people who are working longer driven by the technology. I think it will move further away from the traditional 9-5 working day." (Male, partner, full-time, urban central Scotland).*

- 5.3.7 There was a suggestion that the profession needed to be more innovative in its thinking towards working patterns. There was a perception that clients expected a 24/7 service, but that this was currently being provided by the same individuals day and night. However, the system of providing a nominated person who is 'on call' may provide an opportunity, provided this person is also compensated for 'out-of-hours' work either by time off in lieu or additional pay. Another alternative may be to split longer working hours across the team, this again would maintain the availability that clients desire whilst ensuring that individuals are not overworked.

*"Especially as our clients become more flexible and creative with their working hours then I think everyone will be more accommodating... It'll be more readily understood that people work part-time and therefore they may not be available now but will be available on say Thursday evening." (Female, partner, part-time, rural).*

*"I think that it's only really younger newer firms or partners that would be looking to do that. Some of the younger partners are more willing to use technology to their advantage to keep clients happy and maybe not work the nine to five pattern of hours but still put in the number of hours a client needs but to have more flexibility about it." (Female, private practice, full-time, urban central Scotland).*

- 5.3.8 Some did indicate that there was the potential for a greater divide between private practice and in-house roles in the future due to the difference in client demands.

*“Going forward I think there will become a greater divide between private practice and in-house solicitors. I think that private practitioners, the reasons that clients go to them is because they want to see them, they tend to be specialists operating in small teams, and I can’t really see you saying to a client in that situation that you can only see them on two days because you work part-time, I can’t see that working unless society as a whole becomes more accepting. Whereas in-house there’s generally a greater number of colleagues to draw upon, so if there’s a meeting that I can’t make as I don’t work that day, then my boss would cover it and vice versa. So I think we have greater flexibility in-house to meet clients’ needs. In-house people just want advice from a solicitor generally, not necessarily ‘their’ solicitor, and I think it’s for that reason I think private practice will be slow to offer flexibility.”* (Female, in-house, part-time, urban central Scotland).

## 5.4 CONCLUSION

- 5.4.1 The results of this research would suggest that the culture of extensive overtime has become endemic across the profession. This is having a detrimental impact on the work/life balance of practitioners and has also led/contributed to presenteeism. Further, it has impacted upon the availability of certain flexible working options, such as condensed hours, suggesting that a certain level of overtime is expected without any reward. Some respondents also felt that this overtime was expected as they felt that they would be noticed and considered as less dedicated/committed if they were not seen to be doing this.
- 5.4.2 Technology has brought a number of positive impacts to the profession, both for individuals and for employers. These included faster and more efficient working practices and has facilitated remote working and other flexible working patterns. However, it has also contributed significantly to the increased number of hours practitioners are working, with many commenting that they now find it very difficult to ‘switch off’ from work. If this intrusion can be tackled effectively, it may provide a much needed improvement in practitioners work/life balance.
- 5.4.3 Successful interventions identified by some respondents to tackling both the intrusion of technology and the culture of excessive overtime included management switching off the push technology when all grades of staff are on annual leave, management only being in the office during office hours (i.e. leading by example and not providing the ‘need’ for junior staff to demonstrate commitment through working longer hours), and providing a duty out-of-hours service. These are options that could perhaps be explored more widely throughout the profession and which would not necessarily have significant cost implications for firms/organisations.

- 5.4.4 Many positive elements were identified in relation to accommodating flexible working patterns, and many comments were made around the dedication and commitment of those working flexibly. However, it would appear that flexible working, and in particular part-time working can still have a detrimental impact upon a person's career progression. At best it was considered to slow career progression, but in some cases it was felt that it would have a much more significant and longer lasting effect.
- 5.4.5 As an extension of this, some areas of private practice appear to still be exhibiting signs of discrimination against women, particularly women of child bearing age. Examples were provided of women's current personal circumstances, as well as assumptions being made about their future plans for their personal life being considered (and in some cases being the deciding factor) in relation to promotions, career advancement and new job applications.
- 5.4.6 Those who felt that they had been subject to discrimination however, were very reluctant to make a formal complaint or seek legal action for fear of the detrimental impact it would have on their career. Rather, these individuals were more likely to move firm/employer.
- 5.4.7 There appears to be steady/increasing flow of female practitioners out of private practice and into in-house roles, and particularly public sector organisations. This was considered to be largely driven by the inflexibility of working patterns, the excessive overtime required, and the detrimental effect that maternity leave and part-time working can have on a person's career within the private sector. These elements are perhaps equally pushing women out of private practice as increased flexibility etc. are drawing women into the public sector.
- 5.4.8 Finally, respondents had largely mixed views regarding expected 'norms' and future working patterns for the profession. Many hoped that the increased number of women entering the profession would result in greater prevalence of flexible working patterns for all, and that an increased number of women would make it to the top positions in firms/organisations. Others however, were sceptical as to whether this would be achieved given the slow progress made thus far. Rather, they thought that the traditional patterns would continue and that technology would simply result in the continuation of the trend in extensive overtime and extending the working day, albeit perhaps allowing the increased flexibility in relation to where these additional hours were worked.

# ANNEX A

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## EXAMPLES AND EXPERIENCES OF DISCRIMINATION

### No True Gender Based Discrimination and/or Pay Gap

Many thought that there was no true gender discrimination or gender based pay gap. Rather they felt that any differences would be due to individuals performing different jobs and/or having differing levels of experience. This was an opinion largely, but not exclusively, held by partners.

*“I think there’s probably more senior people who are male in our firm so they probably get paid more, but I wouldn’t say there’s any gender based difference.”* (Female, partner, part-time, urban central Scotland).

*“I’m serious sceptical about saying there’s a substantial significant gender pay gap for the same people doing the same job. That’s not to say it doesn’t happen but the extent of it I haven’t seen either here or in clients.”* (Male, partner, full-time, urban central Scotland).

*“I find it impossible to understand in this day and age why anyone would even begin to think that that’s a principle; you’re talking about discrimination that because she’s a woman then she should get less than a man, it’s so preposterous... If you ran a business on that basis you’d go bust, which is why I actually don’t believe that at the route of all this there’s discrimination... There’s maybe different career paces because he/she has had a year out having a baby or caring for a parent which may impact.”* (Male, partner, full-time, urban central Scotland).

*“There is an issue in relation to fewer women in the senior positions within the firm, but that doesn’t relate to salary. So if you are in a senior position then you’re pay is just the same as a man in that level. The issue is whether there are enough women in these positions.”* (Male, partner, full-time, urban central Scotland).

### Examples of Women Being Held Back in their Career

A number of specific examples of instances where women have felt that they have been discriminated against in terms of their career advancement were detailed. These included both personal experiences and those of colleagues/friends.

One respondent recounted instances of a firm they had previously worked for, which at one point had a largely female dominated team but was now an all-male team. They attributed this to the fact that women had either been made redundant whilst on maternity leave, or had been refused flexible working options and so were unable to return to the firm after maternity leave.

*“I was made redundant whilst on maternity leave... Since then that firm has made redundant every single female member of staff who’s had a child, every single one.” (Female, sole practitioner, part-time, urban central Scotland).*

*“I was made redundant during maternity leave and told I was not as productive as the female colleague the firm wished to take over my duties. When questioned about whether my part-time hours had been factored in to the calculations, the firm admitted they had not, which would have made me the more productive. However, their chosen replacement for my post was thereafter made redundant shortly following her return to work after having her first child. The entire female staff who were mothers, within the team I was part of were all made redundant in favour of men. There were not compelling economic reasons for these decisions but no-one challenged these in any meaningful way. (Female, sole practitioner, part-time, urban central Scotland).*

Another respondent had a female relative that had been penalised for maternity leave and working part-time. Their firm had made it clear that returning to work on a part-time basis would mean no salary or career advancement.

*“[Name] worked in a moderate sized firm in Glasgow and as soon as her maternity kicked in she was side-lined basically. She went back three days a week and they were none too subtle about saying that she shouldn’t be looking for any advancement in position or pay, if you’re working three days a week you can forget about it. She discovered that everyone had received a pay rise in that firm except her. So she left them. It was appalling, but they were none too shy about it. They thought she wasn’t dedicated enough by going back three days a week.” (Male, private practice, full-time, urban central Scotland).*

One female respondent recounted personal experience of applying for an internal vacancy (somewhere within the last four years). They were told they were the preferred candidate and ‘the best person for the job’, but ultimately the position was offered to a male colleague. She was told by reliable sources that the final decision had been made because she was getting married in the near future and there was an expectation that she would therefore have a period of maternity leave soon after. Therefore, the job was withheld, not because of any current or certain fact, but rather due to perceptions and expectations regarding what her future may hold.

*“A position had come up in my previous firm that I wanted to do, I went through the interview process and was told that I was the person that they wanted, and then they gave it to a male trainee basically because I was getting married that year and would be pre-occupied, and would quite quickly want to start a family. I ended up moving firms because of that because I thought in order to do what I want to do I’m not going to be able to stay here and just wait for another position to come up in that team, especially as I was likely to get the exact same response... That team is now solely male, there’s no longer a single female left.” (Female, private practice, full-time, urban central Scotland).*

Yet another respondent had a colleague in a previous firm who had experienced a competition for partnership where she was informed that availability to work additional hours and economic arguments around fee earnings and income for the firm had not been the final deciding factor between two candidates, but rather it had been family commitments that separated them. However, it was used in this case to award the partnership rather than withhold it as it was seen as a positive attribute for the male candidate despite it being cited frequently elsewhere as a drawback/barrier to female advancement.

*“I also know of a woman, in the firm I used to work in, who was vying for Partnership with a man, both were similarly qualified, however, she was the higher fee earner and brought in more money to the firm, she had no dependants whilst he had two small children. He got the partnership, and when she raised this and said that she makes more money and can put in more hours, and they said “well yes, but he’s got a family who depend upon him”, so the family was their reason for giving him the partnership and more money. So it’s the exact opposite treatment but for the same reasons! The very same reasons that they underpay and don’t promote women is the reason given for promoting this man.” (Female, in-house, part-time, urban central Scotland).*

Another respondent recounted conversations with those responsible for interviewing trainees for another organisation, where they indicated that they would not be hiring any females due to an assumption that they would take maternity leave in the future. The same respondent also cited an example of a trainee within their own organisation who had a significant portion of her interview diverted to discuss her family circumstances, despite this not being relevant (either to the position or their current personal situation), and would have been unlikely to be raised/discussed at length with a male colleague in similar situations.

*“I’ve heard from female friends working in the private sector who interview trainees, and they say “we’re not taking girls this year because in five years’ time they’ll be married and off having kids and we’ll have to pay them a year’s maternity pay”. I think that if that’s the sort of attitude you’re up against at the outset then you’re kind of doomed!” (Female, in-house, condensed hours, urban central Scotland).*

*“One of our trainees said she let slip in her interview that she had kids, then the interview was diverted for around 10 minutes to cover who would look after her kids if she was asked to work late – as it turned out her kids were grown up and left home.” (Female, in-house, condensed hours, urban central Scotland).*

Some felt that the nature and importance of chargeable hours and fee earnings within the private sector impacted significantly upon part-time workers career progression. Presumably this issue would affect both male and female part-time workers equally, however, with females making up the majority of part-time workers currently, it may be perceived as being more prevalent an issue for females.

*“The chargeable hours are another way in which part-time workers are discriminated against in terms of promotion. A very good friend of mine, who was*



*a partner, she asked for flexible working to do four days a week; she was told she could do this but that they were only going to reduce her targets by 10%. So she was going to do 80% of the hours but have to meet 90% chargeable hours, and if she missed the target her partnership was at risk.”* (Female, in-house, part-time, urban central Scotland).

## **Examples of Gender Based Salary Imbalances**

Generally, those in the public sector outlined the rigid salary bands and the various equal pay reviews that had been undertaken, and so felt reassured that there would be no gender based pay gap in their organisations.

*“In the organisation I work for there are fairly rigid grades with public sector pay structures, and one thing that can be said for them is that they are less likely to result in gender discrepancies.”* (Male, in-house, part-time, urban central Scotland).

Many in the private sector were also certain that their procedures for reviews and salary discussions were robust and open, and that they were never driven by any gender based considerations.

*“I’ve been on the Managing Board for 20 years and in all that time I’ve never heard one discussion that would result in someone getting paid less than somebody else simply because they were of a different gender.”* (Male, partner, full-time, urban central Scotland).

*“Pay discussions in our firm are certainly not gender based, they’re all ability based.”* (Female, partner, part-time, urban central Scotland).

*“We benchmark salaries against the market, and then we benchmark the people within a team and with their own respective experiences.”* (Male, partner, full-time, urban central Scotland).

Others felt that any pay gap identified in research would be due to more women working part-time, taking time out of the profession for maternity leave, and being found in fewer numbers within the senior and partner ranks rather than any true gender based discrimination in relation to pay within grades.

*“Other than the obvious that more women work part-time, so are more likely to get a lower wage because they are working less hours, other than that it’s not something I have come across.”* (Male, partner, full-time, rural).

*“Any pay differences in our organisation is down to differences in experience within grades rather than any gender bias.”* (Male, private practice, part-time, urban central Scotland).

*“I don’t imagine that firms directly discriminate and pay women less just because they are a woman, I think it is because more women take maternity leave, and*

*probably at the best time in their career they stop for maternity leave and are then the main carer.” (Female, private practice, full-time, urban central Scotland).*

*“I think a lot of the gap in salaries will be because women do take a career gap, so if women take a gap of say 6 years over two children, then that would completely explain the gap. Its needs to be assessed on number of years in the profession.” (Male, private practice, full-time, urban central Scotland).*

*“Probably because a lot of women have a break in their career, and then when they come back in those that had been on a par with them at one point have now moved ahead of them due to length of time with the firm or seniority within the firm.” (Male, in-house Director, full-time, urban central Scotland).*

*“In my previous firm our salary reviews were extensively researched, we considered all sorts of factors including area of law, what others were paying, and what the search agencies were offering, but never did we look at what a male was paid compared to a female... It was related to the number of hours that you wanted to work, and the length of experience you had, and I certainly didn’t feel that I was earning less than any male colleagues.” (Female, sole practitioner, part-time, urban central Scotland).*

Similarly, some felt that any perceived gender based salary gap may be created by the career choices that women make rather than discrimination on the part of employers. For example their chosen area of law/sector perhaps being generally less well remunerated, or because they are placing the importance of work/life balance above their earning potential.

*“Women are perhaps accepting less well paid jobs because there’s a better work/life balance on offer, or that women are perhaps going into sectors that are not as well remunerated, for example family and private client can be less well paid than commercial and corporate. Maybe they’re moving into in-house roles which may be less well remunerated, I do know that the in-house roles are becoming very attractive to female solicitors.” (Female, private practice, full-time, urban central Scotland).*

*“If males were earning more typically it was because they were in a corporate firm and working 18 hours a day and they were doing huge deals where there was bonus payments, and that wasn’t the sort of lifestyle that I wanted.” (Female, sole practitioner, part-time, urban central Scotland).*

However, many other respondents indicated that, whilst they have not experienced any issues directly, they were aware of, or not surprised by gender based salary imbalances.

*“We’ve got quite a lot of female partners and lawyers, and we would never pay them less than males... I’ve never had any issues personally of being paid less because I’m female... But I do know it does happen in other places. And it’s more of an issue when women are working part-time and they’re not getting pro-rata to what their full-time male counterparts might get, it’s an excuse to pay them less.” (Female, partner, full-time, urban central Scotland).*

*“I think it relates to sexism more generally, so I think you’d find it in various areas, large and small.”* (Female, partner, full-time, urban central Scotland).

*“I think it’s because of women working part-time, taking maternity leave and being the primary child carers. That and good old sexism which is still alive and well in quite a lot of quarters, it’s receding but it is still there, so you will even get women who don’t have these commitments but who are still being discriminated against.”* (Female, partner, full-time, urban central Scotland).

*“I don’t have any knowledge of pay differences but I would be surprised if there are not pay differences, and that goes for both my current firm and my previous firms. I would expect that there would be a slight increase for males compared to females. And I think that’s probably just because of the expectation that females will at some point in their careers go off and not be as fully available as the males are. But we all have the clause in our contract that we can’t talk about what we get paid so it makes it very difficult to know for certain.”* (Female, private practice, full-time, urban central Scotland).

*“They return to the profession after having children and just settle for an Associate role and work part-time, and that’s why their pay’s not going up, because they’re working for a firm that doesn’t promote them because they’re working part-time.”* (Female, private practice, full-time, urban central Scotland).

*“In the profession generally I’d say that women are underpaid. I feel that women are sometimes overlooked for promotion once they’re around a certain age as there are assumptions made that they will be off to have children. And I think if a woman does have a break to have children and comes back either part-time or full-time she is behind her male counterparts who have the same level of qualifications and experience, but simply because she took that gap. And because of that I think there is a pressure on women to return to work early from maternity leave. That is also based on the fact that a lot of law firms don’t offer anything other than statutory maternity pay now which I think, for such a highly qualified profession, that’s really bad.”* (Female, private practice, full-time, urban central Scotland).

*“I have concerns that women will go back to work part-time pro-rata on their previous salary, but then they might not get a pay rise or bonus that year because they have been off for some of it, then any subsequent salary increases do not keep pace on a pro-rata basis with full-time colleagues.”* (Female, private practice, full-time, urban central Scotland).

Others were also able to cite examples of either personal experiences, or experiences of those they knew with regards to salary issues which they felt had been driven by gender.

One respondent was aware of two staff members of the same grade and level of experience, and working in the same sector who were paid differing amounts. The firm had a policy that salaries were not to be discussed, therefore to identify whether there was a discrepancy between salaries that should have been equal, the staff swapped and

opened each other's payslips. This way they were able to identify that the female was indeed being paid less than the male, despite all else being seemingly equal.

*"You were not allowed to discuss salary within the firm I previously worked in, so what two Assistants did was, when they got their pay slips at the end of each month they swapped them and opened each other's, so they didn't discuss it. I think they knew that the woman was getting paid less than the man but this provided the proof." (Female, in-house, part-time, urban central Scotland).*

Another female respondent indicated that she felt she had been offered a low starting salary (in 2008), and confirmed that other equivalent male colleagues had been offered higher salaries. In this instance she used this information, plus an alternative job offer, to negotiate a higher salary. There also appears to be a wider perception that this type of practice is fairly commonplace.

*"I think that there is still an expectation that if a young man starts and a young lady starts then the young man gets a higher salary and I still think that's the case." (Female, private practice, full-time, rural).*

*"I am aware from some of my younger female colleagues that they are paid less than their male equivalents, and I don't think that [organisation name] is the worst for that... Also, personally, I'm aware that at the moment there's to be a discretionary bonus made to my department, but as far as I'm aware it's not applicable to me because I'm part-time." (Female, private practice, part-time, urban central Scotland).*

*"I was aware, although not formally, of men being paid more than their female colleagues. Sometimes these women were better qualified and had longer tenure in the firm than the men. I am even aware of examples of women in so-called promoted posts, like associate or senior associate, and the men being simply assistants. Personally, I initiated an equal pay inquiry at my last place of employment and met with a stone wall. All requested information was not made available and I was made to feel as though I'd acted quite inappropriately by raising the issue." (Female, sole practitioner, part-time, urban central Scotland).*

### **Examples of Other Types of Discrimination Discussed**

Respondents identified and discussed further issues of discrimination relating to the bullying and harassment of trainees, as well as discrimination related to socio-economic background and age.

Although most felt that trainees within their own firm/organisation were generally well treated and not subjected to any instances or culture of bullying/harassment or discriminatory behaviour, some were aware of these issues still being relevant elsewhere within the profession.

*"I know of trainees recently through friends, who are being bullied... they won't speak up, they've got a job and they won't speak up. I certainly know within the last year of one." (Female, private practice, full-time, rural).*

*"I was severely bullied during my traineeship [2000-2001] and despite offering significant proof to the Law Society, no-one there was prepared to support my request to reassign my Traineeship at that time. I very much trust things have improved. If I may make a suggestion, the Society could consider asking victims of bullying to make any initial, informal concerns to them by way of quoting a reference they could alter later if matters do not improve. That would perhaps help inform the debate and avoid unnecessary claims of troublemaking if the issues then subside. I very much wish I had had such an opportunity." (Female, sole practitioner, part-time, urban central Scotland).*

*"It [bullying and harassment of trainees] is still prevalent within the profession, but it depends upon the culture of the firm and the organisation... Generally it's not a massive issue in terms of numbers affected, but the fact that it's there at all makes it an issue." (Female, private practice, full-time, urban central Scotland).*

Others however, felt that whilst a lot was expected of trainees and there was an expectation on them to work additional hours, this did not represent bullying/harassment or discrimination, and that in some instances it may be mislabelled/misrepresented as such.

*"I guess as a trainee you're expected to do more, and whether that can be construed as indirect bullying or harassment I'm not sure." (Male, left profession, previously full-time, urban central Scotland).*

*"I think there is an expectation that they will go above and beyond their contracted hours, but it's certainly not bullying or harassment, maybe just overworking." (Female, private practice, full-time, urban central Scotland).*

Some felt that the culture of bullying of trainees is not reducing enough within the profession, and that the Society could/should take a more active role in tackling this.

*"The Society should not let this continue, young girls being bullied by middle aged men is not on... the trainee I am thinking of spoke to her friends and her friend spoke to me and the advice was, you need to phone the Law Society and get it sorted, but I am sure she didn't." (Female, private practice, full-time, rural).*

*"It's an education piece and training. I think as a profession we should have a duty incumbent upon us to train the next generation of solicitors, so I think there needs to be an awareness of that role and what being a good trainer is; so treating your trainees and junior staff well and nurturing them rather than the abuse that can sometimes go on. So education and training could be built into the CPD and emphasising that this is their professional obligation would help." (Female, private practice, full-time, urban central Scotland).*

Others however, felt that the situation regarding the bullying and harassment of trainees has improved significantly.

*“I’ve been in the profession for long enough to remember when trainees were treated like the lowest of the low, but that has steadily improved every year, and I think they’re now well respected and valued, so again, I’m not aware of any issues.”* (Male, partner, full-time, urban central Scotland).

A few respondents mentioned that they felt discrimination based on class/socio-economic background was still a significant issue within the profession, with little having been done to date to either research the extent and/or impacts of this, or to tackle the issue.

*“The biggest obstacle I’ve come across is class/wealth prejudice. I am firmly middle class and even went to a fee-paying school in the west of Scotland, despite not being from a wealthy family - but I encountered distinct prejudice when I came through to Edinburgh to work. The issue appears to be that the partners in charge of many law firms only employ/promote (promotion being the key one) people who are just the same as them - i.e. went to the same schools, are from the same (usually financially wealthy) backgrounds, etc., etc. I know that many of my colleagues felt the same and knew they would never be made a partner because they weren’t “one of us”. It is sad that many firms are still like that, and at the end of the day the only real option was to leave the firm.”* (Male, in-house, full-time, urban central Scotland).

*“It’s not directly discrimination, but I think the elephant in the room still is class in the profession, and I think that’s still more of an issue than gender in the profession. I think it can still be quite an old boys’ network, particularly at the senior level... It’s not discrimination but if there was anything to comment on that would be it rather than gender.”* (Female, private practice, full-time, urban central Scotland).

A final form of discrimination discussed related to age. It was identified that many jobs are advertised as requiring particular qualifications (e.g. the law degree and diploma in legal practice) which can discriminate against those more mature members of the profession who qualified before the introduction of these specific courses/qualifications.

*“I have seen quite a lot of jobs advertised which say you must have the Diploma in legal practice, which is a qualification which wasn’t in existence when I qualified so I don’t have it... so for people of my age and some younger than me... that’s indirectly discriminatory.”* (Male, in-house, part-time, urban central Scotland).

*“Another issue is in saying that you must have a full current practicing certificate, this discriminates against those that want to return to the profession, so for example those that have taken a career break for childcare, etc. but are looking to return.”* (Male, in-house, part-time, urban central Scotland).

## ANNEX B

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### EXPERIENCES AND EXPECTATIONS OF THE SOCIETY

#### GENERAL PERCEPTIONS OF THE SOCIETY

As was identified in the associated age related research report<sup>13</sup>, a number of respondents in this research also highlighted the dual role of the Society as both regulator and representative/union to the profession as creating a conflict, with some suggesting that it is not possible for one organisation to effectively undertake both roles. Many typically felt that the regulatory role was well executed, however, the support to the profession elements were less evident to some respondents.

*“I am not the biggest fan of the society and don’t feel very supported by them... I just feel that they [the Society] are there policing, if they are doing wrong hammer them, but they should be there supporting us as well and I’ve never felt that, I have always felt they are like headmaster... If you get a letter from them you’re scared to open it!”* (Female, private practice, full-time, rural).

*“The Law Society is there, it does the regulation stuff, but I don’t view them as being a source of support to me at all.”* (Female, private practice, full-time, urban central Scotland).

*“They’re not doing what they should be doing. They’re not dealing with the Registers of Scotland and the wholly inadequate service we get from them nowadays, they’re not dealing with the banks and the outrageous nonsense we’re having to put up with about the panel firms and having to sign in blood and provide passports before people will believe who we are. They’re just not doing what the profession needs them to do.”* (Female, partner, part-time, urban central Scotland).

*“They need to truly represent the profession, and to be prepared to make the hard decisions. For example letting the Scottish Government run off and allow all sorts of people to set-up and buy legal firms is wholly inappropriate. And then allowing Scottish Enterprise to fund a London firm to come up here and set-up outsourcing and take jobs away from Scottish paralegals. So if they’d tried to address some of these real issues it would be a fine thing.”* (Female, partner, part-time, urban central Scotland).

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<sup>13</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

Many others however, did discuss their positive experiences of the Society and its role, along with general improvements in service provision.

*“I’ve always had a good experience of the Law Society, and my sense is that it’s on the right road in terms of raising its profile, although it probably has more of that to do.”* (Male, in-house Director, full-time, urban central Scotland).

*“I think the Law Society have always been great, they’ve always helped with everything... I think they always deal with things really well and any queries they have always come back with clear advice on.”* (Female, private practice, full-time, urban central Scotland).

*“It seems to be improving all the time. The contact we get from them and being able to renew your practicing certificate online and deal with things electronically, CPD, etc., they’re all improvements.”* (Female, partner, part-time, rural).

## **VIEWS REGARDING CPD**

A number of respondents had issues around the CPD requirements. Generally these related to the need to justify the relevance of each course attended, difficulties with achieving the required number of hours due to work pressures, and a few respondents who felt the online system for logging CPD hours was still less user friendly than desired.

*“You have to say why each course is relevant and how you’re going to incorporate it... of course I’m going to pick things that are relevant to me. Quite frankly I find that an insult to my intelligence. Yes there will be people trying to scrabble around to achieve their CPD and I can understand that, but even then I guess they won’t do that unless they absolutely have to.”* (Female, private practice, full-time, urban central Scotland).

*“We’re supposed to be trusted professional people, we have legion responsibility to our clients and other solicitors so we should be trusted to do what we need to do, so the justification element is nonsense.”* (Female, in-house, part-time, urban central Scotland).

*“As a part-timer I struggle to do 15 hours of CPD when I can’t always access it and it’s not always on my working days and I can’t alter my days... so the fact that I have to divert some of my precious time when I’m in the office to achieve the recently inflated CPD requirements.”* (Female, in-house, part-time, urban central Scotland).

*“They’re online CPD system is awful and is something they need to work on, it’s not user friendly, very dated even though it’s new... it’s very cumbersome and clumsy and doesn’t make it easy to record your time, there’s so many bits you need to fill in that it feels like you’re answering the same question ten times.”* (Male, left profession, previously full-time, urban central Scotland).



Others however, did find the online system for CPD to be an improvement on the paper based system, and were finding it easy to use.

CPD courses themselves were generally considered to be very good, cover very relevant topics, and provide good/specialist speakers with relevance and/or understanding of the profession. The only criticisms were around cost of Society courses, a lack of relevance to in-house roles, and perhaps a lack of coordination across all providers leading to duplication in provision in some areas.

*“I think the CPD courses by the Law Society are very good, they’re well organised, the topics are very relevant and the speakers and presenters are good, you can rely on them being people that understand the pressures that lawyers face day-in day-out.”* (Male, partner, full-time, rural).

*“I think that some of the ones that I’ve been on are better quality than some of the private companies out there. They usually get somebody who’s largely acknowledged by their peers as an expert in that field and tends to give you relevant day-to-day advice.”* (Male, in-house Director, full-time, urban central Scotland).

*“I do like their CPD courses, the only thing I would say is that they can be quite expensive. But the content is always very good and the speakers they have are always experts in their field.”* (Female, private practice, full-time, urban central Scotland).

*“I do look at the things that are advertised by the Law Society, but very little of it seems to be terribly relevant to me or what I do. A lot of it seems to be corporate, or conveyancing, or litigation areas of private practice, or it’s directed at in-house in a fairly stereotypical type of way, almost a corporate secretary and in-house council type role which doesn’t fit. In-house is such a broad church.”* (Male, in-house Director, full-time, urban central Scotland).

## **VIEWS REGARDING THE JOURNAL AND E-BULLETIN**

On the whole, respondents were generally happy with the journal and e-bulletin, considering it to be well presented, and providing good variety and content. Most considered that it includes enough interesting and relevant articles.

*“The journal seems a lot shorter, or at least has less mass to it than when I first started, but it’s a lot punchier and concentrates on relevant issues.”* (Male, in-house Director, full-time, urban central Scotland).

*“The journal has improved vastly over the past few years. I think it’s great now, it’s much more relevant and interesting to read, and it’s quite modern in the way it’s set out.”* (Female, sole practitioner, part-time, urban central Scotland).

*“I think it’s [the journal] generally improved. The layouts improved, they’ve added more wider articles... they’ve occasionally tried to add a bit of humour into it. I*

*think it is potentially a rather dry magazine, but I think they've tried quite hard to make it look a little bit more interesting and pick on subjects that will be useful to people.” (Male, in-house, full-time, urban central Scotland).*

*“I think the content of the journal is very good. I think they try their best to give coverage to a variety of fields, and also topical things, like for the referendum I felt they were very impartial. Having it online too is very good.” (Female, private practice, full-time, urban central Scotland).*

*“I do quite like having the e-bulletin because it saves me having to open up the journal, it's handy.” (Female, private practice, full-time, urban central Scotland).*

Some respondents did, however, indicate a reduction in satisfaction with the journal. They felt that the articles were of little to no relevance or interest to them, provided too much coverage of award ceremonies, etc. and that they did not like the humour and other less directly professional elements. One respondent also highlighted that previously, when it was more strictly professional, it was the only journal that was available to the profession, however there is now greater competition from an array of sector specific periodicals as well as extensive emails and instant messages with information. Despite this, they felt that this increased availability actually creates a greater need for a serious and professional journal.

*“The magazine [journal] seems to have become a bit tabloid, and dumbing down of the content, it's pretty trashy. Its unnecessarily trying to be hip, and you don't need your professional magazine trying to be hip.” (Female, partner, part-time, urban central Scotland).*

*“I flick through the journal article titles, and I sometimes look through the e-bulletin. It's back to the email bombardment issue though, I flick through it and probably give it about ten seconds and if something catches my eye I might click through or ask my PA to print it, and if the link doesn't work from the email I give up and delete it.” (Male, in-house Director, full-time, urban central Scotland).*

*“The journal content, I am finding that less and less useful now, perhaps because I'm becoming more and more narrowly specialised, but there's not very much of what I want to read in there at all.” (Male, private practice, full-time, urban central Scotland).*

One respondent also indicated that they felt that journal articles can perhaps sometimes be seen to reinforce the idea that part-time working, and any negative effects only relate to women. They felt that it would be interesting, and valuable in progressing the debate, to view this from the male perspective as well.

## VIEWS REGARDING OTHER SERVICES

A number of respondents were very positive about the conflict of interest and professional enquiry service, similar to the experiences mentioned in the associated age related research report<sup>14</sup>. Many also thought that the online renewal of practicing certificates is more efficient and reducing the paperwork involved.

*“I’m very happy with the service particularly around professional matters and complaints... If you give them a call you usually get a reply that day or the following day at the very latest. I find that usually they give you a solution or guidance which is good and solid, so I’m very happy with that part of the service.”* (Male, partner, full-time, rural).

*“I’ve had occasion to phone the Professional Practice Hotline for guidance and they’ve always been super, really helpful. I think that’s a brilliant function of the Society.”* (Female, private practice, full-time, urban central Scotland).

*“I’ve just renewed my practicing certificate online for the first time, which was simple, straightforward and painless.”* (Male, partner, full-time, urban central Scotland).

*“I did notice in the context of the Council elections earlier this year there was a more specific and focused email campaign, including from the Chief Executive. I thought that was very good actually.”* (Male, in-house Director, full-time, urban central Scotland).

Other, more negative issues that were highlighted however, included the removal (or moving of the online search facility related to journal articles, and the limited usability of the member benefits due to practitioners not knowing where these apply.

*“They’ve removed their online article search facility, either that or I can’t find it. It used to be that you could search for and look at past articles online, which was really good, but I don’t know if that’s been removed or if I just can’t find it now.”* (Male, private practice, full-time, urban central Scotland).

*“I don’t use any of the member services where I can get a discount... because I don’t know where the service applies, so if I’m in a restaurant I don’t know that this is one where I can get a discount... I don’t see that package as particularly attractive for any reason.”* (Female, sole practitioner, part-time, urban central Scotland).

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<sup>14</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

## THE SOCIETY'S ROLE IN EQUALITY AND DIVERSITY

Respondents were largely unaware of the Society's work in respect to equality and diversity, with most stating they had never heard of the Equality and Diversity Committee. On the other hand, a few did indicate a vague awareness of both, generally as a result of what they have read in the Journal or from surveys they have participated in. Respondents did raise concern that whilst they noted they had taken part in surveys and research into equalities, they were not aware of any changes that had been implemented as a result of this. It was largely felt that this work needed to be better publicised to the profession.

*"I think things have improved a great deal, but I think the Society's equality work could do with more publicity." (Female, partner, full-time, urban central Scotland).*

*"I think the Society needs to blow its own trumpet a bit more, the Society does a good job but people don't always necessarily know about it. I think they maybe need to publicise a bit more what it does." (Male, partner, full-time, rural).*

Respondents were asked to outline what they thought the Society's role should be in relation to equality and diversity. Again, similar to the findings in the associated age related research report<sup>15</sup>, most respondents felt this should be restricted to encouraging as wide a pool of students as possible, researching and monitoring the matter within the profession, highlighting any issues to the profession, and assisting firms to develop best practice/policies where appropriate. No powers of regulation or any element of positive discrimination were felt to be appropriate however.

The Society should be making the profession aware of any pay issues or other types of discrimination within the profession. Some felt it should be fighting for equality throughout the whole profession, and should have a responsibility in getting the right balance of demographic profile into the profession. They felt the Society should have a role equivalent to the public sectors Equality Duty and to raise awareness of unintended discrimination or unintended offence.

*"Just to communicate that it's something that's expected of legal firms and just to reinforce the message, I don't think they should be policing it or regulating it, it should just do something to make solicitors aware that it's the expected culture the Society would expect to see within firms. Foster and encourage that type of approach and ethos within firms rather than being prescriptive about it." (Male, partner, full-time, urban central Scotland).*

*"I think the Society should absolutely have a role for equality and diversity. Whether it's helping with policies, or monitoring, or offering advice, or going into firms and offering an introduction to the Equality Act to managing partners, you*

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<sup>15</sup> Wilson Smith, E. (2014) *Experiences of Established Professionals within the Legal Profession in Scotland* Law Society of Scotland

*could call it a master-class as you generally need to call it to deliver a seminar to senior people, but I think it's desperately needed."* (Female, in-house, part-time, urban central Scotland).

*"There needs to be much more open and accepted dialogue as to what the issues are, and I think the Society should represent those issues with employers."* (Female, private practice, part-time, urban central Scotland).

*"I think it's a major opportunity, to challenge in the public domain in quite a high profile way some of the perceptions, realities, and stereotypes around the profession. Both in terms of encouraging appropriate practice within firms, but also in terms of the public perception and entering the public arena and engaging in the broader debate. I think it's a really important role that it can play. And not just about gender actually, but diversity more widely."* (Male, in-house Director, full-time, urban central Scotland).

*"I think they're there to: 1. Lead by example; 2. To engage with law firms and show them how flexibility will work and put that information out there; and remind them about equalities and diversity; and give them some insight into what they could do to make themselves more attractive to female staff to retain them. Encourage them to embrace it as they could end up with a better work ethic and be a more attractive firm for clients, because I know in a lot of tender processes now a lot of clients are asking what their equality and diversity policies are, how many females work in the team, do they have part-time staff, etc."* (Female, private practice, full-time, urban central Scotland).

*"It's really up to individual employers as to who they wish to employ. The Society I guess should have some sort of overview function to make sure that people are not only employing men or only employing women, but really if people are aggrieved at not getting an interview etc. then they have legal recourse to deal with that... They just need to make sure that everybody gets an equal chance."* (Female, in-house, condensed hours, urban central Scotland).

*"They're there to represent all of their members, and on the assumption that 50% of their members are female then they should be representing them as well as males, and if they are disadvantaged in any way then they should be trying to rectify that."* (Female, partner, part-time, urban central Scotland).

*"Eliminate any discrimination and to reduce the gender pay gap to zero."* (Female, private practice, full-time, urban central Scotland).

On the other hand, there were those that thought the Society should not get involved in equality and diversity.

*"Minimal involvement. I don't think it is something that the Society has any business to deal with. The profession will regulate itself as people will go for what is profitable and they will realise that it is not profitable to be discriminatory. But*

*the Society mustn't impose it, it's not the job of the Society to do that.*" (Male, private practice, full-time, urban central Scotland).

*"You can't really set targets for gender levels or nationality etc., it's a job... a relatively unique job in that it is very much based on merit, nobody sends work to me, I only get work because people want to be represented, and you can't enforce that kind of thing."* (Male, partner, full-time, rural).

Some felt that the Society had a specific responsibility to encourage a wide intake of students from diverse backgrounds to ensure the pool of trainees is as diverse as possible. They felt this was the only real way the Society could ensure diversity within the profession.

*"As long as everyone who wants to have access has the same opportunity then I thinks that's probably as much as the Society can do."* (Female, private practice, full-time, urban central Scotland).

*"It's difficult, I don't really know what they can do as you're dealing with people already in the profession, apart from perhaps contact with schools and universities to promote at that stage for people coming into the profession, and beyond that it's about information sharing to make us aware of our duties and what we should be doing."* (Female, partner, part-time, rural).

*"I think there is an issue in the entrance into the profession, because traineeships are hard to come by in the profession, I think trainees are expected to commit to much more than they really should have to... I think you need to encourage access to the profession. To do that I think you need to make things better for individual solicitors and need to be open negotiations for better rates of pay. If there is more money in the profession then that will lead to better conditions for everybody."* (Male, partner, full-time, rural).

A number of respondents also felt that the Society should be commenting on or highlight any difficulties with particular issues, e.g. equal pay or a culture of bullying/harassment. They noted that the Society has done this in the past in the journal and this was viewed as a very positive initiative. Some suggested that the Society also had a further/more involved role to play however in instances where solicitors wish to report grievances and in working with specific employers where a complaint has been made.

*"I think that issues of equal pay etc. should be commented on by the Society, but it's a comment only, pointing it out to people, I don't think there's much more they can do unless people are making formal complaints."* (Female, partner, part-time, rural).

*"I think the Society should take every opportunity to comment on or highlight any difficulties in these areas. They have done this in recent times in the Journal and I think its gods that it's done as it just brings it to the front of the minds of solicitors, especially for those in management roles where it's more likely to be pertinent to their role."* (Male, partner, full-time, rural).

*“Being able to represent individuals who have grievances against their own firm, I think that would provide huge assistance.”* (Male, private practice, full-time, urban central Scotland).

*“They should be supporting equality and diversity, they should providing a confidential service for people who feel they have been disadvantaged, maybe some sort of helpline, first of all that acknowledges it and secondly takes a course of action.”* (Female, private practice, full-time, rural).

*“It’s a tough one because people just think that because there’s more women in law now that it’s equal, it’s not though. So although it’s more accessible to us that doesn’t mean it’s equal in terms of rights and salaries and benefits. I think the Society could get that message out there that just because there’s more women it doesn’t necessarily mean that there’s equality.”* (Female, private practice, full-time, urban central Scotland).

In order to improve the public perception of equality within the profession, most respondents indicated that the Society need greater advertising of the issues as well as wide dissemination of success stories. It was also considered that the Society could provide greater advertising of the skills that solicitors have.

*“Need open and regular publicity of equality, with regular articles in the journal and e-bulletin so that the decision makers within the profession keep equality at the forefront of their minds.”* (Male, in-house, part-time, urban central Scotland).

*“Really promote this issue as something that the legal profession is grappling with and wants to be a leader on.”* (Male, in-house Director, full-time, urban central Scotland).

*“They need to engage a bit more with the profession, and more than just bits in the Journal, they need to be coming into firms and presenting on this. It should be mandatory that they come to the firms and talk to the partners to get the message across.”* (Male, left profession, previously full-time, urban central Scotland).

## **SUGGESTED IMPROVEMENTS FOR THE SOCIETY**

Suggestions to improve the Society’s services to its members included:

- Greater advertising of the role and services of the Society;
- Greater and more appropriate consideration of in-house roles and the public sector, too much focus currently on private practice;
- Greater use of video conference facilities to hold meetings, conduct CPD, etc.
- Spend more time engaging, preferably on a face-to-face basis, with each of the Faculties;
- Provide consistent and definitive guidance in relation to professional practice matters, and be prepared to defend this guidance and support the solicitors in the event of a complaint;

- Defend the interests of individual solicitors at the expense of the firms, take the same approach to governing firms as it currently imposes upon individual solicitors;
- Greater reliability of online technology, e.g. website and online forms;
- Reviving the old apprenticeship route was considered a good idea in attracting those from less wealthy backgrounds and making the profession more accessible.

*“Ask solicitors and trainees a bit more about the real life of being a solicitor, maybe engage a bit more with the profession rather than being seen as a separate body. And encourage a bit more involvement, there tends to be people that are Law Society people who tend to move around the various committees, it’s the same faces you see, so it would be good if they engaged a bit more and were more inclusive of the profession and a bit more open.”* (Female, private practice, full-time, urban central Scotland).

*“If they give advice they should back it up. I have in the past approached them for advice then phoned a couple of days later and they have done a 180 on the advice they’ve given me. I feel there’s a certain feeling within the profession that if you are in a difficult situation and you are seeking that advice, but at the end of the day they won’t back you up. So if you fall foul of something they will very quickly abandon you... They quickly go from being a councillor for the solicitor to saying that they shouldn’t have done that, even though it was the Society that suggested they should do that very thing.”* (Male, in-house Director, full-time, urban central Scotland).

Suggestions to better promote members interests included:

- Equality and diversity should be promoted more;
- Greater lobbying and representations to other bodies and Government on behalf of the profession;
- Promote Scotland as a legal jurisdiction, raise the profile of Scots Law and Scottish solicitors;
- Increased PR on a positive basis, promote a positive picture of the solicitor;
- More support in relation to Legal Aid;
- Greater advertising of the level of protection that the public get when dealing with a solicitor;
- Society intervention in poor professional practices can result in a cumbersome and lengthy processes which should ideally be more streamlined.
- Develop a similar Council profile as is implemented by organisations such as the Scottish Land Owners Estates, where there are paid area co-ordinators to cover Scotland. In terms of how the Council works this could be divided into the Sheriffdoms and have a paid member for each area, and it should be those people plus the Chief Executive (and a Secretary) who forms the Council of the Society. This may be more representative and less cumbersome to manage.

*“It’s not widely known by the general public about the degree of protection that they get when dealing with a solicitor, and they only find that out when they have a*



*problem... So I'd welcome a good degree of public advertising of these features."* (Male, partner, full-time, rural).

*"It would be good if they could help us to comply with the rules and regulations rather than simply being there to punish us if/when we don't comply."* (Female, partner, part-time, urban central Scotland).

*"The key role for the Society for me, it's not about giving members stuff... It's actually about being an ambassador for the credibility and public standing of the profession as a whole, and really getting out there and raising the profile of the profession and its importance."* (Male, in-house Director, full-time, urban central Scotland).

Finally, suggestions to better promote best practice within the profession included:

- Provide CPD courses on professionalism, and/or an annual best practice seminar;
- Committees that better represent the profile of the profession, containing members who work day-to-day within the relevant sectors;
- Greater dissemination of professional practice queries received by the Society's helpline. This would allow wider learning and adoption of best practice.

*"We should be trumpeting the standards that we adhere to and the professionalism of the profession in the face of competitors from all sorts of different quarters. We should brand ourselves on our standards and our professionalism, even if that comes at somewhat of a premium."* (Male, in-house Director, full-time, urban central Scotland).

*"I've been on the receiving end of pretty bad practice relatively recently, and a lot of it has been due to a lack of awareness of acceptable practice within the profession. Possibly some form of annual best practice seminar would be of use to quite a lot of practitioners."* (Male, private practice, full-time, urban central Scotland).

## ANNEX C: INTERVIEW TOPIC GUIDES

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### PARTNERS, FULL-TIME AND PART-TIME

#### 1. BACKGROUND

I know the arrangements for patterns of work are somewhat different for partners, but we intend to use the terms full time and part time as a shorthand if that's acceptable.

1. Can you please provide some background to your current position, level of/number of years' of experience within the legal profession, and whether you work full or part time? If you work full time, have you ever worked part time in the past? Was this as a partner or before you became a partner?

Probe: private practice, in-house solicitor, size of firm/sole practitioner, partner, employee in private firm, in-house solicitor, full-time/part-time/condensed hours contract/etc.

2. What areas of law do you work in (e.g. criminal law, employment law, family law, conveyancing, commercial/corporate law, etc)?
3. When did you enter the legal profession in Scotland? If applicable, did you do anything before starting your legal career, if so please detail?

#### 2. WORKING PATTERNS AND THE IMPACT OF TECHNOLOGY

4. Last year's survey of the profession indicated that most solicitors (80%) work additional hours on a regular basis. Does your partnership contract specific working hours and do these match the actual hours you and your colleagues/staff work?
5. The survey also provided a picture of a typical working week [SHOW FIGURE 18 FROM REPORT]. This indicates that most start work before 9am, with many starting before 8am. That most solicitors work through their lunch breaks. And that most solicitors also work on beyond 5pm, with a significant number still working beyond 8pm.
  - Is this a pattern that applies to you? What time do you generally start and finish work? If you start before and/or finish after your contracted time, how often do you generally do this? Where do you typically do this work, from home, or in the office? If you work late, do you regularly restart working again, perhaps once you get home, or once the kids have gone to bed?
  - A total of 10% of all solicitors indicated that they work on non-contracted weekdays. Do you find that you work regularly on non-contracted days? How often and for how long per day? Is this done from home or does it involve having to go into the office/attend meetings/etc?
  - A fifth (21%) of solicitors reported working regularly during annual leave, with 13% and 16% working regularly on Saturdays and Sundays respectively. Do

you ever work at weekends or whilst on annual leave? How often do you find you do this? Is this done from home or does it involve having to go into the office/attend meetings/etc?

**BEFORE MOVING ON RECAP HOW MANY START EARLY, WORK THROUGH LUNCH AND FINISH LATE REGULARLY, AND HOW MANY ONLY DO ONE OR THE OTHER.**

6. Repeat Q5 for staff/employees. Establish the general working patterns of the firm's staff.
7. What is the reason/reasons for this overtime?  
  
Probe: Is it required due to workload; firms/organisations being short/under-staffed; is it expected, either by your firm/organisation or by clients; is it through choice, for example because technology allows you to work from home, because you are keen to be seen as dedicated and help you climb the career ladder, or because you just can't switch off/can't help yourself, etc.
8. What impact does this overtime have on your/your staffs work-life balance? How does it impact upon career progression? Is working additional hours equated with commitment and dedication? Should it be? How does this balance out?
9. Does your cycle of work change throughout the year, for example between holiday times and other times of the year? Is this a good thing, or not? Are there any formal rules/policies or informal understandings in your firms/organisations about when it's OK to take holidays and when it is not?
10. Are you/your staff happy with your/their working hours/patterns? Consider both contracted hours, and the number of additional hours worked? Do you feel that your firm was (upon offering you and others the job) and is open and honest about the number of hours required? Do contracts reflect the number of hours truly expected to perform the job? If unhappy, what could/should be done to improve the situation? How responsible do you feel, as a partner, for the work patterns of your staff.

**Use of New Technology**

11. What has the impact of technology been **on you**? [Probe for both good and bad impacts].
12. What has the impact of technology been on your staff/employees? [Probe for both good and bad impacts].
13. What has the impact of technology been **on your business**? [Probe for both good and bad impacts].

### 3. EXPERIENCES AND PERCEPTIONS OF FLEXIBLE WORKING

14. Does your firm do anything to support either part time workers directly or the team more generally to accommodate part time hours that could be identified as best practice?
15. How supportive do you feel other colleagues are of part time staff?
16. What do you consider to be the benefits and/or positive elements, if any, of facilitating part time hours, (a) for the team, and (b) for your firm/employer?
17. What do you consider to be the disbenefits/negatives and/or problems related to part time working within the team, (a) for the team, and (b) for your firm/employer?
18. How do the positives and negatives balance out?
19. What impact, if any, does being part-time and/or having part-time workers in your team have on holidays? Are there any family friendly benefits to being part-time?
20. Do you think that working part time has any negative impact upon a person's career? If yes, please explain the nature of this impact, and whether it is generally a lasting impact or is remedied when working full time again?
21. How easy or difficult is it for part time workers to increase their hours and/or return to work full time? What issues does this create for a firm trying to accommodate this?
22. Have you received training on managing staff? Did this include training on managing part time staff? Have you been trained on managing new technologies and their impact on staff work patterns/personal life?
23. What do you think the future will/should look like in terms of work patterns in the profession? Do you think more creative and flexible patterns will become more common and 'normal'? Will and should extensive levels of overtime remain as the 'norm'? What will some of the 'new norms' look like (probe: flexibility in working locations, greater flexibility in working hours, more part-time workers, etc)?

### 4. PAY GAP

**[SHOW PAY GAP GRAPH].** The evidence from last year's survey indicated that a gender based pay gap still exists, so we are keen to understand a bit about your experiences of this and opinions regarding the reasons behind this gendered difference in salaries.

24. Are you aware of any issues in relation to pay, either personally, within your firm/organisation, or within the profession more generally? Has your firm ever done an equal pay audit? As a partner, have you access to data which would let you know if there was a pay gap or not?
25. What pay discussions do partners have each year for themselves? What pay discussions take place for staff?

26. Do you think this gap in salaries is related to more women than men working part time, or taking maternity leave, fewer women being found in the ranks of partner, etc or do you think there is more to it?

27. Why do you think there are fewer female partners, are there additional barriers faced by women?

Probe: Women less interested in the role/responsibility, women less driven, women more risk averse to investing, less able to invest, stereotyping assumptions made about women, etc.

28. For those of you that have ever **worked part time**, did you work part time before applying for partnership, when you became partner, or has this happened since achieving this position? If after achieving partnership status, did you disclose that you may wish to work part time in the future? For those that were part time previously, do you feel this had any effect on your application for partnership?

29. How are women generally viewed within the profession; just as dedicated, professional and capable as men, or is there a perception that that they will leave to have babies, want to work part time, take time off at short notice when children are ill, less able to/interested in working additional hours, etc?

## 5. EXPERIENCES AND PERCEPTIONS OF DISCRIMINATION

30. Have you experienced, or witnessed any form of discrimination around gender or pattern of work, or had any form of discrimination reported to you? If yes, please provide some details of the situation – without being specific about who was involved, i.e. no names please. Do you think there are particular issues for trainees?

31. Do you feel that bullying/harassment/discrimination in the profession is reducing? Is there more that the Society could do in this respect?

32. As a partner, how responsible do you feel for bullying in the workplace?

33. Have you had any training on managing a positive work environment/tackling bullying?

## 6. EXPERIENCES AND EXPECTATIONS OF THE SOCIETY

34. Have you noted any issues or elements of best practice around the Society's work? [Probe: regulatory matters, eg renewing your practising certificate each year, inspections, complaints, CPD requirements, and/or membership services like provision of CPD course, Journal content, e-bulletin content, etc.]

35. What work by the society around equality are you aware of? Are you aware of the Society's Equality and Diversity Committee and any of the work that they have done?

36. What do you think the Society's remit and responsibility should be for equality and diversity within the profession?

- 37.** Do you think the Society should be commenting on sector wide issues where there is firm evidence, like equal pay and bullying, or is this a matter that should be left entirely to employers? Or does it vary depending upon issue and remit (for example, since getting a traineeship is a required part of the regulated route to becoming a solicitor)?
- 38.** What more do you think the Society could do to:
- improve its own services,
  - promote the interests of the Society's members,
  - promote better practice in the profession,
  - improve its public position on equality issues.

## FULL-TIME EMPLOYEES AND IN-HOUSE

### 1. BACKGROUND

1. Can you please provide some background to your current position, level of/number of years' of experience within the legal profession, and whether you work full or part time? If you work full time, have you ever worked part time in the past?

Probe: private practice, in-house solicitor, size of firm/sole practitioner, partner, employee in private firm, in-house solicitor, full-time/part-time/condensed hours contract/etc.

2. What areas of law do you work in (e.g. criminal law, employment law, family law, conveyancing, commercial/corporate law, etc)?
3. When did you enter the legal profession in Scotland? If applicable, did you do anything before starting your legal career, if so please detail?

### 2. WORKING PATTERNS AND THE IMPACT OF TECHNOLOGY

4. Last year's survey of the profession indicated that most solicitors (80%) work additional hours on a regular basis.
  - How often do you work additional hours, over and above your contracted/normal salaried hours?
  - What is the extent of this overtime – i.e. how often and average number of additional hours per week/month?
  - Are you generally paid extra for these additional hours or is it 'expected' at your level/within the profession more generally?
5. The survey also provided a picture of a typical working week [**SHOW WORK PATTERN GRAPH**]. This indicates that most start work before 9am, with many starting before 8am. That most solicitors work through their lunch breaks. And that most solicitors also work on beyond 5pm, with a significant number still working beyond 8pm.
  - Is this a pattern that applies to you? What time do you generally start and finish work? If you start before and/or finish after your contracted time, how often do you generally do this? Where do you typically do this work, from home, or in the office? If you work late, do you regularly restart working again, perhaps once you get home, or once the kids have gone to bed?
  - A fifth (21%) of solicitors reported working regularly during annual leave, with 13% and 16% working regularly on Saturdays and Sundays respectively. Do you ever work at weekends or whilst on annual leave? How often do you find you do this? Is this done from home or does it involve having to go into the office/attend meetings/etc?

**BEFORE MOVING ON RECAP HOW MANY START EARLY, WORK THROUGH LUNCH AND FINISH LATE REGULARLY, AND HOW MANY ONLY DO ONE OR THE OTHER.**

6. What is the reason/reasons for this overtime?

Probe: Is it required due to workload; firms/organisations being short/under-staffed; is it expected, either by your firm/organisation or by clients; is it through choice, for example because technology allows you to work from home, because you are keen to be seen as dedicated and help you climb the career ladder, or because you just can't switch off/can't help yourself, etc.

7. What impact does this overtime have on your work-life balance? How does it impact upon your career progression? How does this balance out? Is working additional hours equated with commitment and dedication? Should it be?

8. Are you happy with your working hours/patterns (please consider both your contracted hours, and the number of additional hours you work)? Do you feel that your employer was (upon offering you the job) and is open and honest about the number of hours required? Does your contract reflect the number of hours you feel are truly expected of you? If unhappy, what could/should be done to improve the situation?

### Use of New Technology

9. The next few questions are about your use of technology to work remotely.

- Do you use any 'new' technology to access work emails/files remotely, eg smart phone, ipad/tablet, laptop, home PC? Who provides these, work or personal?
- Do you use a remote login or is 'push' technology activated so emails automatically come through to personal devices when they're switched on?
- Has the use of this new technology had an impact, either positive or negative, on the number of **additional hours** you do? Please explain this impact and whether you see it as a benefit or disbenefit, (a) for yourself, (b) for your firm/organisation more generally, and (c) for the profession overall – eg does this encourage unrealistic expectations amongst clients, etc? To what extent does this impact upon your work-life balance?

10. Has the use of new technology allowed you, or others you work with, to be more flexible in your working location **during your main working hours**? Do you consider this to be a benefit or disbenefit, (a) for yourself, (b) for your firm/organisation more generally, and (c) for the profession overall – eg does this encourage unrealistic expectations amongst clients, etc? Please explain your answers. To what extent does this impact upon your work-life balance and/or impact upon your colleagues/firm/organisation?

11. Does your cycle of work change throughout the year, for example between holiday times and other times of the year? Is this a good thing, or not? Are there any formal rules/policies or informal understandings in your firms/organisations about when it's OK to take holidays and when it is not?



### 3. EXPERIENCES AND PERCEPTIONS OF FLEXIBLE WORKING

12. Do you work with people that are contracted to part time/condensed hours? What impact, if any does this have on you, other colleagues, and/or the firm/organisation?
13. In general, how supportive is (a) your firm/employer and (b) your direct manager in providing part time positions, and supporting the whole team when it includes part time workers?
14. Does your firm/employer do anything to support either part time workers directly or the team more generally to accommodate part time hours that could be identified as best practice?
15. How supportive do you feel other colleagues are of part time staff?
16. What do you consider to be the benefits and/or positive elements, if any, of facilitating part time hours, (a) for the team, and (b) for your firm/employer?
17. What do you consider to be the disbenefits/negatives and/or problems related to part time working within the team, (a) for the team, and (b) for your firm/employer?
18. How do the positives and negatives balance out?
19. What impact, if any, does being part-time and/or having part-time workers in your team have on holidays? Are there any family friendly benefits to being part-time?
20. What do you think the future will/should look like in terms of work patterns in the profession? Do you think more creative and flexible patterns will become more common and 'normal'? Will and should extensive levels of overtime remain as the 'norm'? What will some of the 'new norms' look like (probe: flexibility in working locations, greater flexibility in working hours, more part-time workers, etc)?

### 4. PAY GAP

**[SHOW PAY GAP GRAPH].** The evidence from last year's survey of the profession indicated that a gender based pay gap still exists, so we are keen to understand a bit about your experiences of this and opinions regarding the reasons behind this gendered difference in salaries.

21. Are you aware of any issues in relation to pay, either personally, within your firm/organisation, or within the profession more generally?
22. Do you think this gap in salaries is related to more women than men working part time, or taking maternity leave, fewer women being found in the ranks of partner, etc or do you think there is more to it?
23. Why do you think there are fewer female partners, are there additional barriers faced by women?

Probe: Women less interested in the role/responsibility, women less driven, women more risk averse to investing, less able to invest, stereotyping assumptions made about women, etc.

24. How are women generally viewed within the profession? (Probe: just as dedicated, professional and capable as men, or is there a perception that that they will leave to have babies, want to work part time, take time off at short notice when children are ill, less able to/interested in working additional hours, etc.)

## 5. EXPERIENCES AND PERCEPTIONS OF DISCRIMINATION

25. Have you experienced, or witnessed any form of discrimination around your pattern of work or gender? If yes, please provide some details of the situation – without being specific about who was involved, i.e. no names please.
26. Do you feel that there is a culture of bullying, harassment, or elements of discrimination for either trainees, or as a result of equality issues such as gender, or due to people working part-time or often working out of the office, etc?
27. Do you feel that bullying/harassment/discrimination in the profession is reducing? Is there more that the Society could do in this respect?
28. Do you think that full-time staff have a better overall deal than part-time staff?

## 6. EXPERIENCES AND EXPECTATIONS OF THE SOCIETY

29. Have you experienced/noted any issues/best practice in terms of interaction with the Society around regulatory matters which relate to your pattern of work (eg renewing your practising certificate each year, inspections, complaints, CPD requirements)? If yes, please explain these, and when was this?
30. Have you experienced/noted any issues/best practice around the membership services of the Society – like provision of CPD course, Journal content, e-bulletin content, etc. If yes, please explain these, and when was this?
31. What work by the society around equality are you aware of? Are you aware of the Society's Equality and Diversity Committee and any of the work that they have done?
32. What do you think the Society's remit and responsibility should be for equality and diversity within the profession?
33. What more do you think the Society could do to:
- improve its own services,
  - promote the interests of the Society's members,
  - promote better practice in the profession,
  - improve its public position on equality issues.

## PART-TIME EMPLOYEES AND IN-HOUSE

### 1. BACKGROUND

1. Can you please provide some background to your current position, level of/number of years' of experience within the legal profession, and whether you work full or part time? If you work full time, have you ever worked part time in the past?

Probe: private practice, in-house solicitor, size of firm/sole practitioner, partner, employee in private firm, in-house solicitor, full-time/part-time/condensed hours contract/etc.

2. What areas of law do you work in (e.g. criminal law, employment law, family law, conveyancing, commercial/corporate law, etc)?
3. When did you enter the legal profession in Scotland? If applicable, did you do anything before starting your legal career, if so please detail?

### 2. WORKING PATTERNS AND THE IMPACT OF TECHNOLOGY

4. Last year's survey of the profession indicated that most solicitors (80%) work additional hours on a regular basis.

- How often do you work additional hours, over and above your contracted/normal salaried hours?
- What is the extent of this overtime – i.e. how often and average number of additional hours per week/month?
- Are you generally paid extra for these additional hours or is it 'expected' at your level/within the profession more generally?

5. The survey also provided a picture of a typical working week [**SHOW WORK PATTERNS GRAPH**]. This indicates that most start work before 9am, with many starting before 8am. That most solicitors work through their lunch breaks. And that most solicitors also work on beyond 5pm, with a significant number still working beyond 8pm.

- Is this a pattern that applies to you? What time do you generally start and finish work? If you start before and/or finish after your contracted time, how often do you generally do this? Where do you typically do this work, from home, or in the office? If you work late, do you regularly restart working again, perhaps once you get home, or once the kids have gone to bed?
- A total of 10% of all solicitors indicated that they work on non-contracted weekdays. Do you find that you work regularly on non-contracted days? How often and for how long per day? Is this done from home or does it involve having to go into the office/attend meetings/etc?
- A fifth (21%) of solicitors reported working regularly during annual leave, with 13% and 16% working regularly on Saturdays and Sundays respectively. Do you ever work at weekends or whilst on annual leave? How often do you find

you do this? Is this done from home or does it involve having to go into the office/attend meetings/etc?

**BEFORE MOVING ON RECAP HOW MANY START EARLY, WORK THROUGH LUNCH AND FINISH LATE REGULARLY, AND HOW MANY ONLY DO ONE OR THE OTHER.**

6. What is the reason/reasons for this overtime?

Probe: Is it required due to workload; firms/organisations being short/under-staffed; is it expected, either by your firm/organisation or by clients; is it through choice, for example because technology allows you to work from home, because you are keen to be seen as dedicated and help you climb the career ladder, or because you just can't switch off/can't help yourself, etc.

7. What impact does this overtime have on your work-life balance? How does it impact upon your career progression? How does this balance out? Is working additional hours equated with commitment and dedication? Should it be?
8. Are you happy with your working hours/patterns? Consider both your contracted hours, and the number of additional hours you work? Do you feel that your employer was (upon offering you the job) and is open and honest about the number of hours required? Does your contract reflect the number of hours you feel are truly expected of you? If unhappy, what could/should be done to improve the situation?

### **Use of New Technology**

The next few questions are about your use of technology to work remotely.

9. Do you use any 'new' technology to access work emails/files remotely, eg smart phone, ipad/tablet, laptop, home PC? Who provides these, work or personal?
10. Do you use a remote login or is 'push' technology activated so emails automatically come through to personal devices when they are switched on?
11. Has the use of this new technology had an impact, either positive or negative, on the number of additional hours you do? Please explain this impact and whether you see it as a benefit or disbenefit, (a) for yourself, (b) for your firm/organisation more generally, and (c) for the profession overall – eg does this encourage unrealistic expectations amongst clients, etc? To what extent does this impact upon your work-life balance?
12. Has the use of new technology allowed you, or others you work with, to be more flexible in your working location during your main working hours? Do you consider this to be a benefit or disbenefit, (a) for yourself, (b) for your firm/organisation more generally, and (c) for the profession overall – eg does this encourage unrealistic expectations amongst clients, etc? Please explain your answers. To what extent does this impact upon your work-life balance and/or impact upon your colleagues/firm/organisation?

13. Does your cycle of work change throughout the year, for example between holiday times and other times of the year? Is this a good thing, or not? Are there any formal rules/policies or informal understandings in your firms/organisations about when it's OK to take holidays and when it is not?

### 3. EXPERIENCES AND PERCEPTIONS OF FLEXIBLE WORKING

14. What are the reasons you work part time? If you were not able to work part time/condensed hours would you be able to continue in your current job?
- 15.1. How supportive do you feel the following people are about you working part time/condensed hours?
- 15.2. Have you encountered any particular support or recognition from any of the following that could be identified as best practice?
- 15.3. Have you encountered any problems or issues in relation to you working part time/condensed hours from any of the following?
- Your firm/employer;
  - Your direct manager; and
  - Your colleagues.
16. What do you consider to be the **benefits and/or positive elements** of working part time, (a) for yourself, (b) your team/colleagues, and (c) for your firm/employer?
17. What do you consider to be the disbenefits/negatives and/or problems related to you working part time, (a) for yourself, (b) your team/colleagues, and (c) for your firm/employer?
18. What impact, if any, does being part-time have on holidays? Are there any family friendly benefits to being part-time?
19. **[IF NOT ALREADY COVERED ABOVE]** Do you find that technology means you work outwith your contracted part time/condensed hours? Do you consider this to be positive or negative (or both), and in what way? What impact does this have on your work/life balance?
20. Do you think that working part time has had any negative impact upon your career? If yes, please explain the nature of this impact, and whether you think it will be a lasting impact or will be remedied when working full time again?
21. Do you plan to continue to work in this pattern for the rest of your career? How easy do you think it will be to move back to full-time/increase your hours? What factors need to change for you to amend your hours again?
22. What do you think the future will/should look like in terms of work patterns in the profession? Do you think more creative and flexible patterns will become more common and 'normal'? Will and should extensive levels of overtime remain as the 'norm'? What will some of the 'new norms' look like (probe: flexibility in working locations, greater flexibility in working hours, more part-time workers, etc)?

#### 4. PAY GAP

**[SHOW PAY GAP GRAPH].** The evidence from last year's survey indicated that a gender based pay gap still exists, so we are keen to understand a bit about your experiences of this and opinions regarding the reasons behind this gendered difference in salaries.

- 23. Are you aware of any issues in relation to pay, either personally, within your firm/organisation, or within the profession more generally?
- 24. Do you think this gap in salaries is related to more women than men working part time, or taking maternity leave, fewer women being found in the ranks of partner, etc or do you think there is more to it?
- 25. Why do you think there are fewer female partners, are there additional barriers faced by women?

Probe: Women less interested in the role/responsibility, women less driven, women more risk averse to investing, less able to invest, stereotyping assumptions made about women, etc.

- 26. How are women generally viewed within the profession; just as dedicated, professional and capable as men, or is there a perception that that they will leave to have babies, want to work part time, take time off at short notice when children are ill, less able to/interested in working additional hours, etc?

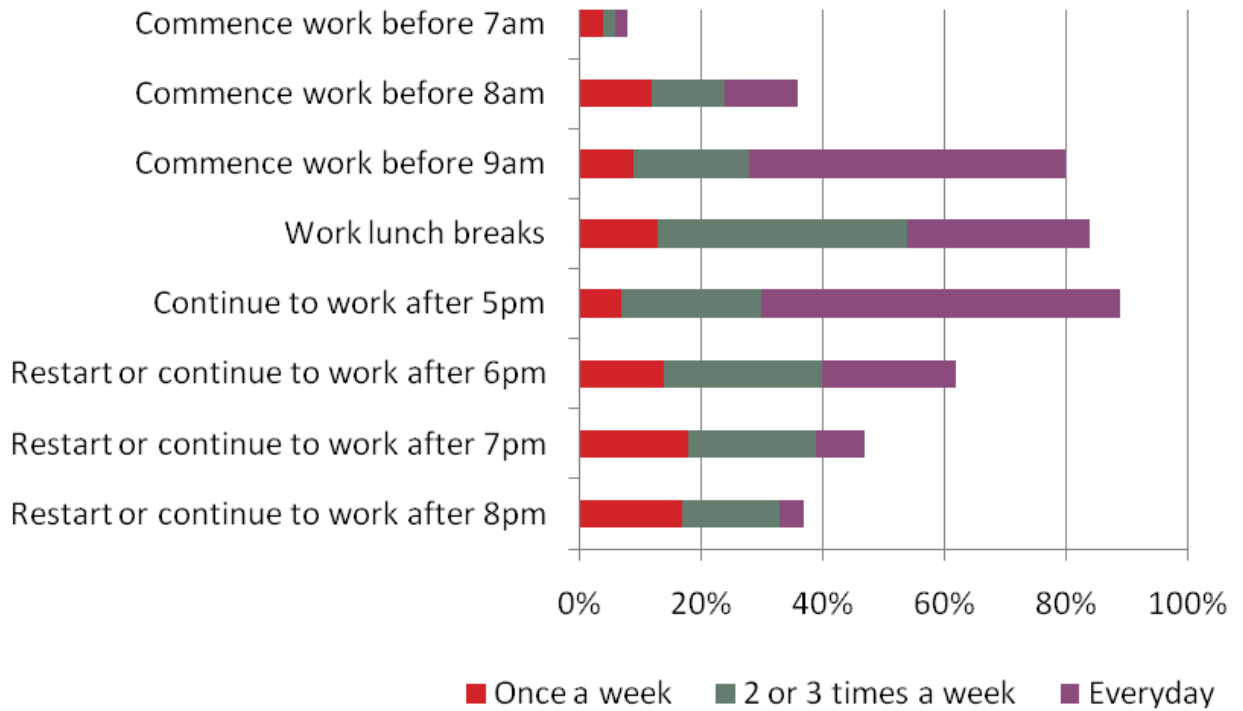
#### 5. EXPERIENCES AND PERCEPTIONS OF DISCRIMINATION

- 27. Have you experienced, or witnessed any form of discrimination around your pattern of work or gender? If yes, please provide some details of the situation – without being specific about who was involved, i.e. no names please.
- 28. Do you feel that there is a culture of bullying, harassment, or elements of discrimination for either trainees, or as a result of equality issues such as gender, or due to people working part-time or often working out of the office, etc?
- 29. Do you feel that bullying/harassment/discrimination in the profession is reducing? Is there more that the Society could do in this respect?
- 30. Do you think that full-time staff have a better overall deal than part-time staff?

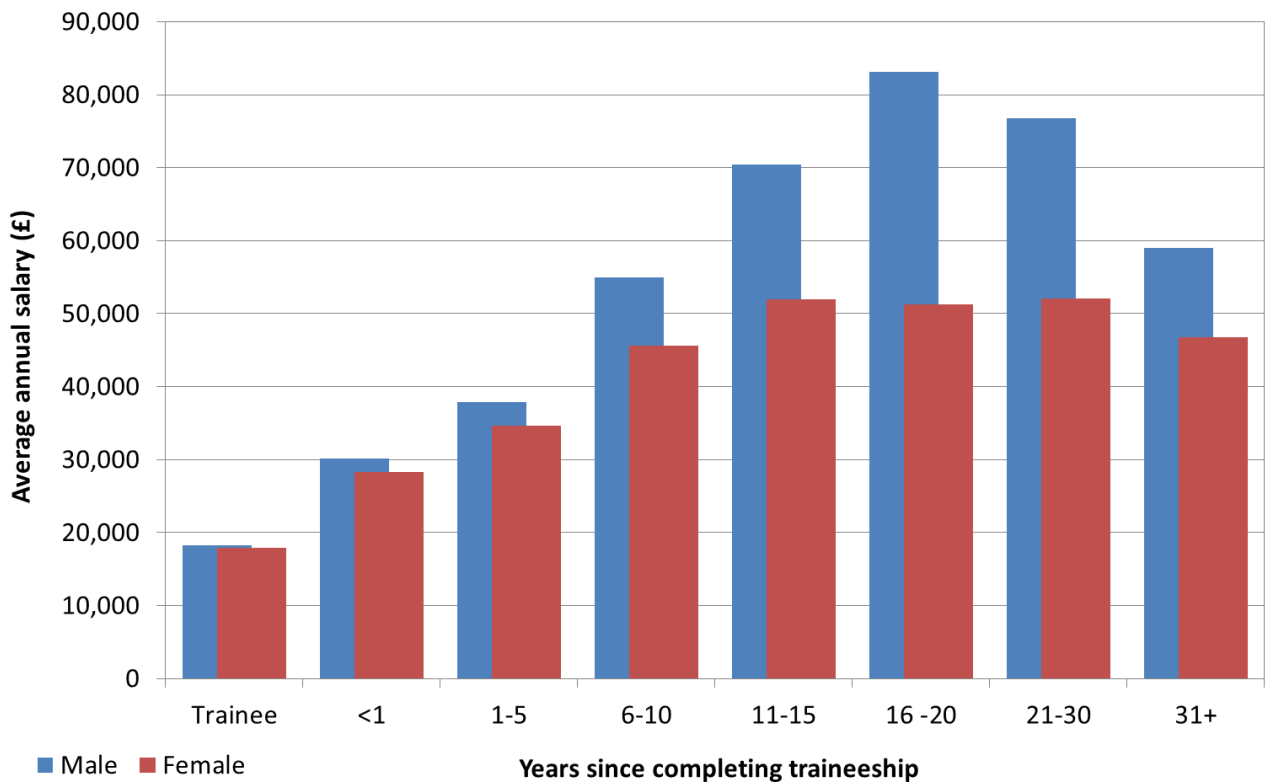
#### 6. EXPERIENCES AND EXPECTATIONS OF THE SOCIETY

- 31. Have you experienced/noted any issues/best practice in terms of interaction with the Society around regulatory matters which relate to your pattern of work (eg renewing your practising certificate each year, inspections, complaints, CPD requirements)? If yes, please explain these, and when was this?

32. Have you experienced/noted any issues/best practice around the membership services of the Society – like provision of CPD course, Journal content, e-bulletin content, etc. If yes, please explain these, and when was this?
33. What work by the society around equality are you aware of? Are you aware of the Society's Equality and Diversity Committee and any of the work that they have done?
34. What do you think the Society's remit and responsibility should be for equality and diversity within the profession?
35. What more do you think the Society could do to:
  - improve its own services,
  - promote the interests of the Society's members,
  - promote better practice in the profession,
  - improve its public position on equality issues.



### Typical Weekly Work Patterns



### Gender Pay Gap