

Closing the ethnicity stay gap - in summary

Why firms are failing to retain ethnic
minority talent and what to do about it

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INTRODUCTION

The progress we've made is undeniable: 30-50% of British trainees in many of the top law firms come from minority ethnic backgrounds, including the most under-represented ethnic minority backgrounds - often with substantial social disadvantage, too. But those Black, Asian and minority ethnic (BAME) trainees aren't staying on in sufficient numbers to reflect that progress in the potential partner pool.

Our data – anonymised information about almost six thousand lawyers at Allen & Overy, Bryan Cave Leighton Paisner, Clifford Chance, Herbert Smith Freehills, Hogan Lovells, Macfarlanes, Slaughter and May, Travers Smith, and White & Case, plus 50 one-to-one interviews with high performing lawyers about their experiences at law firms – shows that the average BAME lawyer's tenure at a top firm is about 18 months shorter than that of the average white lawyer. And BAME lawyers are overwhelmingly not moving to other firms, but going to very junior in-house roles early in their careers.

We're sharing our research into why this is happening, and what to do about it.

KEY FINDINGS

BAME lawyers spend on average 20% less time in post than their white counterparts. Between August and December 2019, we tested a series of hypotheses to see which if any variables within the BAME experience appear to influence whether these lawyers stay at or leave their firms.

Our data suggests the following factors are likely to be the underlying reasons for BAME lawyers leaving early. These factors are, in order of importance:

1. Differential treatment based on race. 84% of the BAME lawyers we interviewed said they had experienced implicit racism or exclusion, while 35% had experienced explicit racism directed at them. This was consistent across all firms and firm types.
2. Gender. 50% of the BAME women we spoke to left their firms within three years of qualification compared to 21% of the BAME men. The BAME women were also twice as likely as the BAME men to experience explicit racism and 50% more likely to experience implicit racism.
3. Lack of senior sponsorship or backing. Twice as many BAME lawyers who received senior sponsorship stayed compared to those who didn't.
4. Unfair work allocation. The BAME lawyers in this study who left early were more likely to believe they had experienced unfair work allocation than the group as a whole (81% versus 64%).

5. Lack of practice group diversity. 52% of the BAME lawyers in non-diverse practice groups left early versus 18% in diverse practice groups.
6. Conflict handling. Senior backing is empowering and can reinforce the existence of an inclusive culture, making it more likely a BAME lawyer will be retained.

We found no clear evidence that any other variables – for example firm type, or educational or social background of BAME lawyers – had an impact on the decision to leave early. Instead, this research establishes that ethnicity when isolated as a variable is a significant driver of how long lawyers remain in their firms. To retain more BAME lawyers, firms need to build on the work they are already doing to attract a diverse intake and create a truly inclusive culture.

RECOMMENDATIONS

The report ends with detailed recommendations. These can be summarised as:

1. Make race a leadership focus.
2. Get the data on what is happening to BAME lawyers and create an action plan.
3. Give BAME lawyers appropriate support.
4. Have clear communications, policies, and training on race.

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