



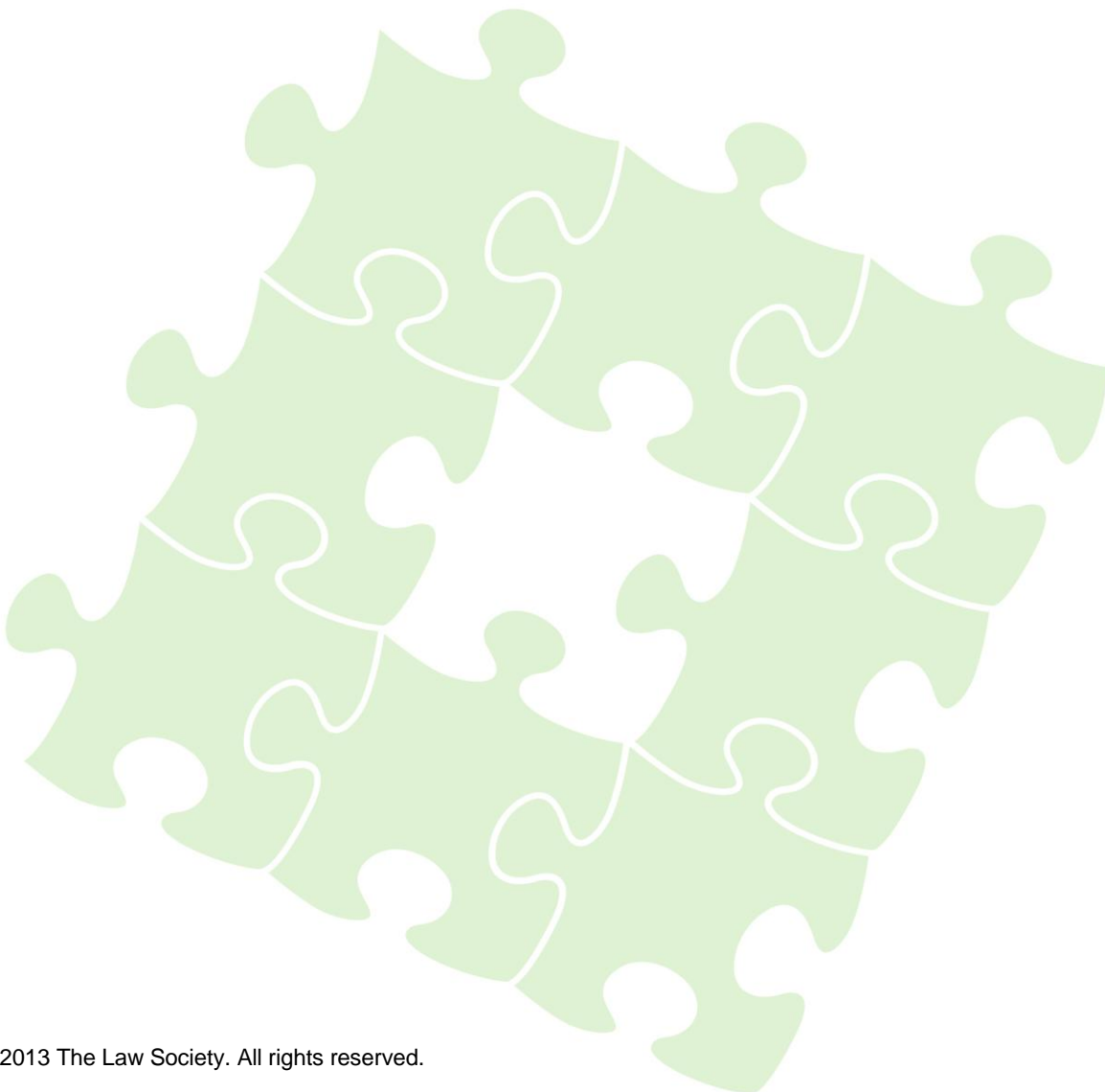
The Law Society

# **Using blind and contextual processes for the recruitment of trainee solicitors:**

## **Encouraging social mobility**

Guidance and toolkit for England

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# EXECUTIVE SUMMARY

## INTRODUCTION

- In this toolkit 'fair recruitment' of trainee solicitors refers to eliminating the barriers people face in employment due to their social background
- Whilst some progress on diversity in the legal sector has been made with regard to gender and ethnicity, less attention has been given to social background
- Unconscious bias – biases we are unaware of – can lead to firms missing opportunities to hire the best people. Firms can take steps to become aware of bias and adapt recruitment processes to minimise the potentially unfair effects of bias
- As well as making an important contribution to a fairer society, there is also a significant business case for improving the fairness of your recruitment, e.g., attracting and retaining the best candidates, increasing diversity in your workforce encourages innovation, showing clients and prospective clients you are committed to fairness

## UNCONSCIOUS BIAS

- Our background, cultural environment and personal experiences all influence our thought patterns and the way we make sense of the world – from this we develop 'biases' which help us to make quick decisions about different situations or people we meet
- While such biases can be useful in helping us navigate everyday life, they can also result in us making unfair decisions about others
- This toolkit starts from the position that we *can* become more aware of bias and that when more aware of our biases, we can become more responsible for limiting the effect they have on our behaviour and decisions
- There are three key approaches to overcoming bias: identifying your biases, confronting your biases, and getting support from senior staff to respond to bias in the recruitment process

## BLIND RECRUITMENT

- Blind recruitment refers to the practice of removing information from applications which may suggest personal characteristics of the applicant
- Blind recruitment attempts to make the recruitment process more objective and reduce the impact of bias
- The main strength of blind recruitment is at application stage - personal information is supplied on a separate page, which is then separated from the rest of the application when being considered for shortlisting
- It is also possible to hold blind interviews – recruiters go into the interview without having seen the interviewee's application form beforehand. This encourages recruiters to focus interview questions on competencies required to perform the job rather than biases about an applicant's background information
- Blind recruitment can also be aided by the use of tests. Rather than providing information about their education and work background applicants are tested in some other way, such as presentations or role play. This enables recruiters to focus solely on skills and personal abilities and consider applicants' future potential

## CONTEXTUAL RECRUITMENT

- Contextual recruitment is a process which allows you to assess candidates' academic and other achievements in the context of their social background
- The aim of contextual recruitment is to identify or 'flag' candidates who are from less advantaged social backgrounds in order to understand which candidates might benefit from adjustments in the recruitment process (e.g. reduced A-level requirements for particular students)
- You will normally use contextual recruitment when shortlisting applicants
- Before beginning the process of contextual recruitment, you will need to decide what type of information you are going to use to support the recruitment process. After this there are broadly five steps:
  - Step 1: Generate support for contextual recruitment from leadership. Your aim at this stage is to create a shared vision across the organisation, with senior leaders championing the need for fairer recruitment practices and a more diverse workforce
  - Step 2: Modify your application forms to include a separate section in which contextual information is requested
  - Step 3: Collate the contextual data. Some of the data will require further research, such as average A-level attainment at the applicant's school. But you don't need to gather this data for everyone, first you should narrow the number of applicants you gather this information for using particular criteria. Once you have decided the applicants for whom additional contextual data might be useful, you'll need to collect that data (e.g. socio-economic background) to better understand their circumstances whilst at school or university. Much of this data is freely and publicly available.
  - Step 4: Make a decision. You'll then need to decide whether or not to make an adjustment for applicants from less advantaged backgrounds. Contextual information doesn't tell you who should be shortlisted, but it highlights people whose achievements might otherwise be overlooked.
  - Step 5: Monitor the contextual recruitment process to check that over time it is doing what you want it to, and support integration of new employees

## 1.0 INTRODUCTION

### 1.1 Who is this toolkit for?

This toolkit is designed for partners, human resources professionals, and anyone involved with the management of a law firm and the trainee recruitment process. The toolkit is for firms of all sizes, but where relevant it identifies particular issues that small, medium, or large firms may want to consider.

### 1.2 What is fair recruitment?

Over time all of us build up particular ways of interpreting information about the world. These assumptions can be positive – they help us to process information efficiently, making quick decisions about situations or people. But they can also constitute ‘unconscious bias’. This refers to bias that we are unaware of and which is outside of our control. And in business, bias can be costly. It can lead to firms missing opportunities to hire the best people and it can lead to unfair recruitment decisions being made.

Becoming more aware of the biases we have is an important first step in minimising their impact on our behaviour and our decisions. Firms can also take steps to adapt their recruitment processes to minimise the potentially unfair effects of bias. This toolkit provides guidance on two such types of ‘fair recruitment’ practice which are becoming increasingly popular in the legal profession: ‘blind’ and ‘contextual’ recruitment. In this toolkit ‘fair recruitment’ of trainee solicitors refers to eliminating the barriers people face in employment due to their social background – e.g. being from a disadvantaged background or attending the ‘wrong’ type of school or university.

### 1.3 Why is promoting fair recruitment important?

In 2011 the Legal Services Board reported that whilst progress on diversity in the legal sector had been made with regard to gender and ethnicity, less attention had been given to social background. And certainly the picture is not overwhelmingly positive. In 2013, 23.6% of practising solicitors educated in the UK went to an independent/fee paying school<sup>1</sup> and in 2014 this rose to 26.6%<sup>2</sup> and in 2015 to 27.4%.<sup>3</sup> In comparison, only 7% of the general population attend independent schools in 2012.<sup>4</sup>

The results are slightly more positive when looking at the proportion of solicitors who were the first generation in their family to attend university. In 2013, 32.8% of solicitors were the first generation in their family to go to university<sup>5</sup>, in 2014 this rose to 50.5%<sup>6</sup> and in 2015 this rose to 52.7%<sup>7</sup>. It’s worth noting, however, that in 2013 over two thirds (64.2%) of barristers attended a Russell Group university,<sup>8</sup> whereas around half of students in England with top grades (ABB+) did not attend a Russell Group university.<sup>9</sup>

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<sup>1</sup> Law Society (2013) *Diversity and Inclusion Charter Annual Review 2013*.

<sup>2</sup> Law Society (2014) *Diversity Profile of the Profession: A Short Synopsis*

<sup>3</sup> Law Society (2015) *Diversity Profile of the Profession: A Short Synopsis*

<sup>4</sup> Social Mobility and Child Poverty Commission (2014) *Elitist Britain*

<sup>5</sup> Law Society (2013) *Diversity and Inclusion Charter Annual Review 2013*.

<sup>6</sup> Law Society (2014) *Diversity Profile of the Profession: A Short Synopsis*

<sup>7</sup> Law Society (2015) *Diversity Profile of the Profession: A Short Synopsis*

<sup>8</sup> The General Council for the Bar (2014) *Bar Barometer – Trends in the Profile of the Bar, 2014*

<sup>9</sup> Social Mobility and Child Poverty Commission (2013) *Business and Social Mobility: a Manifesto for Change*

However, it is not just the legal sector that is struggling to make progress in this area. The UK fares poorly on social mobility when compared to other OECD countries<sup>10</sup> and social mobility slumped in the latter part of the last century.<sup>11</sup> Following a national review, the Panel on Fair Access to the Professions<sup>12</sup> emphasised the pivotal role the professions can play in promoting broader social mobility. The Solicitors Regulation Authority has stressed the particular duties the legal sector has with regard to diversity, as it ensures the fair administration of justice, and as such should be broadly reflective of the population it serves.<sup>13</sup>

But aside from making an important contribution to a fairer society, there is also an important business case for improving the fairness of your recruitment. Adopting fair recruitment practice can help you to:

- Attract and retain the best candidates by drawing from a wider pool of talent.
- Avoid overlooking talented candidates you may not have previously considered.
- Increase diversity in your workforce, which can help you to innovate and respond to a changing client base.
- Show clients and prospective clients that you are committed to fairness and build a reputation on that basis.

#### **1.4 What does this toolkit cover?**

The toolkit begins by introducing the concept of ‘unconscious bias’ and suggesting broad actions law firms can take to minimise the impact of bias on behaviour and the decisions made during entry level recruitment. This is followed by separate sections on how to adopt ‘blind’ and ‘contextual’ recruitment at entry level in your firm.

After using this toolkit you will have a better understanding of:

- Bias and broad steps your firm can take to respond to bias and promote fair recruitment.
- When and how to use ‘blind’ recruitment for the selection of trainee solicitors.
- When and how to use ‘contextual’ recruitment for the selection of trainee solicitors.

#### **1.5 How to use this toolkit**

A number of law firms, particularly larger ones, have already announced their adoption of blind and/or contextual recruitment in recent years. Some of these firms are featured as case studies in this toolkit and have started using software programmes that automate some of the processes associated with contextual recruitment. This guide is for firms who want to improve their recruitment practice, but do not (or cannot) currently make provision for this kind of investment. Firms using contextual recruitment software may nevertheless find some useful suggestions in this guide. The toolkit is designed to provide an overview of blind and contextual recruitment and offer a range of options that can be used and adapted by law firms (small, medium, and large) to meet their particular requirements.

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<sup>10</sup> Professions for Good, Social Mobility Toolkit 2014; Sutton Trust (2009) *The Educational Backgrounds of Leading Lawyers, Journalists, Vice Chancellors, Politicians, Medics and Chief Executives*

<sup>11</sup> Social Mobility and Child Poverty Commission (2014) *State of the Nation 2014*

<sup>12</sup> Panel on Fair Access to the Professions (2009), *Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions*

<sup>13</sup> SRA (2014) *Using Law Firm Diversity Data*

A range of guidance is available to law firms on how to promote social mobility and fair recruitment (outlined in the 'useful resources' section at the end of this toolkit). The toolkit aims to be complementary to that existing guidance – indeed parts of it draw on that existing guidance. Not all firms will be able to respond to all of the measures suggested here, and we recommend that firms dip in and out, identifying the recruitment issues that are most relevant to them and adopting measures accordingly. It is not intended as an all-or-nothing approach.

## 2.0 UNCONSCIOUS BIAS

### 2.1 What is unconscious bias and implicit bias?

Our background, cultural environment and personal experiences all influence our thought patterns and the way we make sense of the world. Essentially these 'biases' are there to protect us. A bias is a preference for or against a person, thing or group. They help us to make quick decisions about different situations or the people that we meet. Unconscious bias refers to those thought patterns that, out of necessity for efficient brain functioning, lie below our level of consciousness. While such biases can be useful in helping us navigate everyday life, they can also result in us making unfair decisions about others. In an increasingly fast-paced and global work environment this can result in recruitment practices that fail to draw from the widest pool of talent available.

When recruiting trainee solicitors, there are some forms of bias that are more 'explicit' and which decision-makers may be more conscious of. For example, recruiters may be quite aware of their tendency to favour candidates who went to the same school or university as themselves. But other forms of bias can be harder to identify and recognise. For example, the way that candidates dress, their speech, perceptions of their confidence or 'gravitas' and their ability to 'fit' into the firm. While we may not be immediately 'conscious' of these forms of bias, some argue we can be made more aware of them. For this reason, Greenwald and Banaji<sup>14</sup> refer to 'implicit' rather than 'unconscious' bias because they believe it is possible to become more conscious of it.

This toolkit starts from the position that we *can* become more aware of bias – both explicit and implicit – and that when more aware of our biases, we can become more responsible for limiting the effect they have on our behaviour and decisions. For this reason the term 'implicit' rather than 'unconscious' bias is used in the rest of this toolkit.

### 2.2 Approaches to overcoming implicit bias

The majority of this toolkit provides advice on two specific recruitment practices (blind and contextual recruitment) which can be used to reduce the potential impact of bias on the recruitment of trainee solicitors. However, there are other broader steps that law firms can take to recognise and respond to bias. These include identifying the biases you hold; confronting your biases; and leadership support from the top.

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<sup>14</sup> Greenwald, A. G., & Banaji, M. R. (1995). Implicit social cognition: Attitudes, self-esteem, and stereotypes. *Psychological Review*, 102, 4–27.



### **2.2.1 Identifying the biases that you hold**

Implicit biases are not deliberately created; in fact our implicit biases can differ widely from the attitudes we think we hold about other people. This can sometimes make the process of identifying and understanding our implicit biases an uncomfortable one. Nevertheless, identifying implicit biases is an important first step in overcoming them.

One way to identify implicit biases is through internal reflection. Here are some questions to start you off. They may help you to identify implicit assumptions you are making about the 'right' type of candidate for your firm and your perception of these 'in-groups' (e.g. people who speak a particular way or are from a particular background) in the firm:

- Was there something about particular applicants that I have hired recently that really made them stand out for me, but wasn't recorded as part of the recruitment scoring process?
- What do I mean when I say an applicant would 'fit' into the culture of the firm?
- How do I judge some of the more intangible attributes of a candidate such as 'teamwork potential', 'adaptability', 'gravitas', or 'confidence' at interview?
- Do I tend to hire people with the same types of personality?
- Do I raise concerns with relevant colleagues if I think our job candidate profile isn't sufficiently diverse?

Another way of identifying implicit biases is by inviting honest feedback from colleagues on your role in the recruitment process. You could discuss this with your direct line manager and arrange to receive 360-degree confidential and anonymous feedback from a range of trusted colleagues on the kinds of topics described in the questions above.

Finally, a variety of online tools are available to help people identify the biases they may hold. The Harvard University 'Implicit Association Test' (described in 'Useful Resources' at the end of this toolkit) is one.

### **2.2.2 Confronting your biases**

When you are more aware of the biases you hold it can be useful to discuss them with a coach or trusted colleague, in particular considering the potential impact of these biases and how you can confront them. A 'critical friend' like this can help to informally hold you to account on the progress you are making and you can talk to them if you experience particular difficulties.

Confronting implicit bias is a long-term goal and is not easy. However, raising your awareness about how such bias operates will help you be more alert and sensitive to it – especially in situations where you know you are particularly vulnerable to these types of bias.

With your improved awareness of the 'in-groups' that you tend to favour, you can enter the recruitment process more mindful of the attitudes and behaviours that can result in unfair treatment of candidates. The actions you take to reduce the impact of bias will be personal to you and your firm. They could include becoming more aware of (and avoiding) scenarios that offer candidates from your 'in-group' a more favourable interview experience – for example, by adopting behaviours which make the candidates you favour feel more accepted and welcomed and thus able to perform better at interview. You may also encourage colleagues to think critically about what 'fit' with the company actually means.

You may also want to restrict discussion about whether you, or other recruiters, 'liked' a candidate.

### **2.2.3 Support from the top**

It helps to have a strong commitment from partners and senior HR professionals when taking steps to respond to implicit bias in recruitment. When leaders are seen to acknowledge that they too have biases that they plan to overcome, their example can prompt colleagues to do the same. Over time this can help to influence the culture within a firm, encouraging colleagues to discuss bias more openly, and helping to improve the 'way that things are done round here'.

Leaders can prompt investment in 'implicit' or 'unconscious' bias training for employees, perhaps starting with the recruitment team. Typically this will start with an online test to help employees identify their implicit biases. This will be followed by learning and development work to help employees understand those biases and develop strategies for confronting them in the future.

Leaders too can help raise expectations and establish systems for reducing bias at particular points of the recruitment process. For example, initiating a review of assumptions made about which universities to visit and where the best trainee solicitors will be found. Or reviewing what guidelines assessors are following on assessment days to facilitate their judgment of job candidates.

The remainder of this toolkit focuses on two such changes that can be made to specific stages of the recruitment process to help reduce the influence of implicit bias and to improve the fairness of recruitment: blind recruitment and contextual recruitment.

## **3.0 BLIND RECRUITMENT**

### **3.1 What is blind recruitment?**

Put simply, blind recruitment refers to the practice of removing certain information from applications, such as name, address, and name of school or university attended. This sort of information can suggest a person's ethnicity, gender, age, or social background, and as such its presence on the application could allow unconscious bias to influence recruiters' decision making. By removing this information blind recruitment practices attempt to make the recruitment process more objective and based on the merits of the application against the selection criteria.

### **3.2 Why use blind recruitment?**

A number of studies have shown that the presence of personal information on an application can affect the likelihood of an individual being invited to interview.<sup>15</sup> Blind recruitment is seen as means to overcome this bias and many large companies – including UCAS, KPMG, HSBC, Virgin Money, the BBC, the NHS, the civil service and local government – use some form of blind recruitment. It is also increasingly popular in the legal sector, and Clifford Chance, one of the first law firms to adopt this approach in the UK, has as a consequence seen the number of universities it successfully recruits trainees from rise from 32 in 2012, to 41 in 2013, and 45 in 2014.

### **3.3 When to use blind recruitment**

The strength of blind recruitment is at the initial application stage; at assessment and interview selectors will meet the applicant face-to-face, thus eliminating their ability to be 'blind' to gender, age, ethnicity or aspects of social background, such as accent. But there *are* ways that blind recruitment can be used to support interviews – although it is also useful to consider the tips provided about confronting implicit bias in Section 2 of this toolkit too, as these are relevant to face-to-face scenarios.

Blind recruitment methods are especially suited to smaller firms, who may only recruit one or two trainees, as they are faster and simpler.

### **3.4 How to undertake blind recruitment**

#### **3.4.1 Applications**

Whether you have a standard application form or request CVs to be submitted, name-blind applications simply means separating some information from the rest of the application. The personal information to be omitted might include:

- Name
- Date of birth
- Address
- Name of school
- School type (i.e. state/selective/fee paying)
- Name of university

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<sup>15</sup> Bertrand, M. and Mullainathan, S. (2004) 'Are Emily And Greg More Employable Than Lakisha And Jamal? A Field Experiment On Labor Market Discrimination', *American Economic Review*, 94(4): 991-1013.

Quite simply, personal information is supplied on a separate page, which is then separated from the rest of the application when being considered for shortlisting. It can help to use a simple candidate code for each page of an application so that the page with personal information can be reunited with the rest of the application later in the recruitment process if desired.

### **3.4.2 Interviews**

In order to conduct blind interviews, shortlisting and interviewing must be carried out by different people. Initial shortlisting decisions are made based on the application, but interviewers don't see the applicant's CV or application form at all before conducting the interview. Interviews are conducted with only the most basic information – for example, interviewers may be provided only with the applicant's name.

Rather than interviewers using background information from CVs to inform their opinion of applicants, blind interviews encourage recruiters to focus on competencies required to perform the job. Applicants sell themselves on the basis of what is said in the interview, rather than what is written in their application. This can help to reduce the pre-judgements or assumptions that recruiters may make about a candidate. It can encourage more objective interviewing, enabling interviewers to listen to responses with a more 'neutral' ear rather than hearing things which support ideas already formed on the basis of background information. As with blind applications, blind interviews aim to reduce the chance of bias affecting decision-making.

Personal information, CVs, or application forms and notes taken during the interview process can all be brought together at the end of the recruitment process, when the final selection for the position is made.

#### **Case study: Shoosmiths Blind Recruitment**

Shoosmiths has been making use of blind recruitment processes for over eight years. The firm is clear, however, that this means more than just removing applicants' names and the university they attended before forms are passed on to scorers. It also means creating a culture in which staff see the value of equality and diversity. This is important in ensuring processes like blind recruitment 'stick' – that is, people taking part in it understand why it is important and how they can implement it properly. This avoids the danger of people bypassing the process (perhaps by asking to see the removed data when finding it difficult to choose between two candidates). Central to creating this kind of organisational culture is leadership from senior partners: staff take equality seriously when they see senior managers take it seriously. Shoosmiths has seen appointments of trainees from traditionally marginalised backgrounds increase significantly since implementing blind recruitment.

### **3.4.3 Tests**

Some organisations are taking a further step and trying out new ways of recruiting (either for jobs or for internship positions) which don't rely on CVs at all. Rather than providing information about their education and work background, as in traditional application processes, applicants are tested in some other way. This enables recruiters to focus solely on skills and personal abilities and consider applicants' future potential.

Tests can be used in place of, or in support of, a traditional application form. Commonly used methods include:

- Tasks designed to test specific skills. For example, the application process for the Government Legal Service legal trainee scheme makes use of a number of tests including a 'situational judgement test' in which applicants are presented with hypothetical situations and a list of possible reactions and must pick which reaction they think is most appropriate.
- Presentations.
- Role play.
- Written exercises (e.g. an essay competition).

**Case Study: Clifford Chance 'Intelligent Aid' Essay competition**

Clifford Chance reserve half of the places on its vacation programmes for applicants who submit a short essay (600 words) on a designated topical subject and are evaluated on that basis rather than on a CV or application form. The top 40 entrants in the essay competition are invited to a final where they tackle a challenging case study.

The top 20 finalists who can demonstrate their innovative thinking and persuasive arguments to an expert panel of judges win a Vacation Scheme place. Once on the Vacation Scheme, they are given the opportunity to be interviewed for a Training Contract. This has helped Clifford Chance broaden its reach and draw future talent from a much wider pool of universities.

## 4.0 CONTEXTUAL RECRUITMENT

### 4.1 What is contextual recruitment?

Imagine you're asked to review two application forms. Here's the key information for each applicant:

NAME	A-LEVEL RESULTS	UNIVERSITY	WORK EXPERIENCE
Jonathan	AAA	2:1, King's College London	Has legal work experience
Katy	BBB	1 <sup>st</sup> , Manchester Metropolitan	No legal work experience

Which candidate would you hire? On the face of it Jonathan may appear to be the stronger candidate, but let's add some supplementary information that puts Katy's *achievements* in context:

NAME	A-LEVEL RESULTS	UNIVERSITY	WORK EXPERIENCE	SCHOOL'S AVERAGE A-LEVEL RESULT	POSTCODE OF CHILDHOOD HOME
Jonathan	AAA	2:1, King's College London	Has legal work experience	AAA*	Neighbourhood one of the least deprived in the country
Katy	BBB	1 <sup>st</sup> , Manchester Metropolitan	No legal work experience	DDC	Neighbourhood one of the most deprived in the country

Has this changed your opinion of who might be the better candidate?

Contextual recruitment is simply a way of accessing and considering this kind of information when recruiting. It is typically used at the initial application stage, before assessment or interview and allows you to assess candidates' academic and other achievements in the context of their social background. We'll explore exactly what data you might use later in this guide. It's worth noting, though, that the data won't normally include information relating to characteristics protected under equality law (things like age, race, religion, or sex). Generally speaking, it's not lawful to treat one applicant more or less favourably than another based on these 'protected characteristics'.

### 4.2 Why use contextual recruitment?

Contextual recruitment can help you identify people who are extremely motivated to become solicitors, but who otherwise might be overlooked. Some of the key qualities recruiters are looking for – resilience, stamina, adaptability – don't always come across in application forms because these tell us relatively little regarding applicants' personal circumstances. In the cases above, for example, Katy's attributes would only come to the fore if she explained that she had had to work while studying for her degree, that she was the first of her family to go to university, and cared for her mother while at school.

Contextual recruitment is also a good way of mitigating the potentially negative effects of *social capital*. Social capital is conferred by a group's shared values, understanding, and networks. Taking the above cases, for example, Jonathan may have:

- Completed work experience at a firm owned by his father's best friend (networks).
- Been coached on interview techniques by his parents, both of whom work in the professions (understanding).
- Grown with the expectation he would study law at university (values).

These opportunities may have been unavailable to Katy, but is it fair recruitment practice to penalise her because of this? Contextual recruitment can help your firm to develop a better sense of the background of job candidates to aid you in making fairer decisions that recognise future potential as well as previous achievements.

### **4.3 When to undertake contextual recruitment**

You will normally use contextual recruitment when shortlisting applicants for a particular activity – be it a job interview, attendance at an open day, or an invitation to complete online tests.

It is important to note contextual recruitment does **not** tell you who should be shortlisted. Instead, it highlights people who may have been overlooked during the shortlisting process but who nonetheless might have the attributes to thrive in your firm. The information you gather during the contextual recruitment process might nudge you to invite someone for interview but there is no requirement for you to do so. There are no quotas.

### **4.4 How to undertake contextual recruitment: step by step**

The aim of contextual recruitment is to identify or 'flag' candidates who are from less advantaged social backgrounds in order to understand which candidates might benefit from adjustments in the recruitment process (e.g. reduced A-level requirements for particular students).

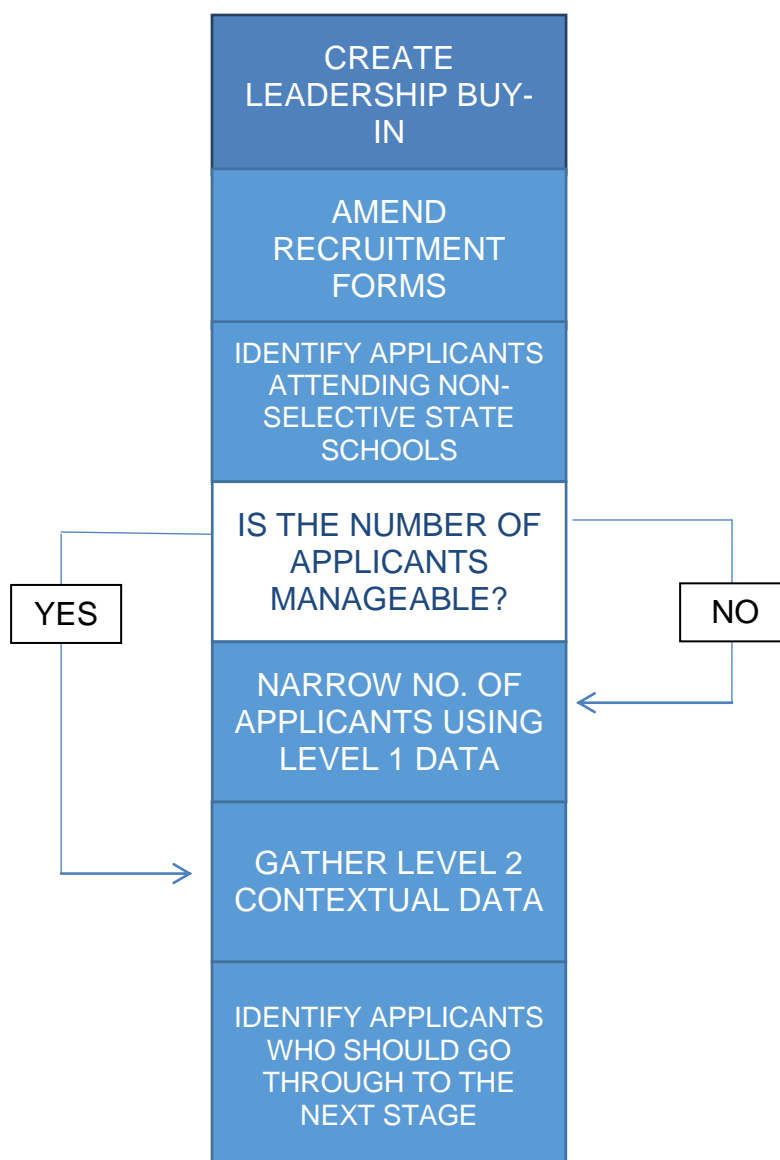
#### ***Introduction:***

The step-by-step approach that follows sets out a journey you can take in your own firm to develop an approach to contextual recruitment that works for you. It includes information about preparatory work and practical suggestions about how to collect and process contextual recruitment data and make fairer recruitment decisions.

We have included in this tips on how to collect data that is self-reported and not independently verifiable (e.g. questions about parental experience of higher education or previous caring responsibilities). This is because it can help provide useful background data that would not be available when judging educational performance and levels of deprivation alone. If you choose not to use self-reported data because it is not verifiable (and some firms will feel this way), you can skip steps 1-3 (but remember to include a question asking applicants to state the postcode of the house they lived in whilst studying for their A-levels).

The flowchart below provides an overview of the approach. Steps 1 and 2 are pre-recruitment. The remaining steps are when you will start practising contextual recruitment.

## The Contextual Recruitment Process: Flow-chart



### ***Preparatory Work***

The information you decide to use to do this and the questions you ask of job applicants is up to you. You will need to decide in advance how much weight you are going to give to particular types of contextual information when making selection decisions and how much time and resource you can spend on the process of contextual recruitment as a whole.

You can start by using existing data, such as recruitment monitoring forms, to identify which groups are under-represented in your recruitment. Are applicants from particular backgrounds – more deprived backgrounds, say – under-represented at particular stages of the recruitment process? Does this vary across particular practice areas within the firm or at particular office locations? This will help you to be more targeted in the development of a contextual recruitment process that works for your firm.

Depending on your organisation, the make-up of your staff, and how you recruit, there will be a range of possible contextual information that will be of interest. Before beginning the process of contextual recruitment, you will need to decide what type of information you are



going to use to support the recruitment process (some may require further research or data-gathering). Some information that may be useful – such as whether an applicant’s parents attended university – you may already be recording in line with SRA diversity monitoring guidelines. It can help to think of questions as falling into one of two categories:

Level 1 questions

Level 1 questions are asked of candidates at application stage and are generally fairly simple questions that they can provide easily interpreted ‘yes’ or ‘no’ answers to. For example:

1. Did either of your parents/guardians complete a university degree course?
2. Did either (or both) of the following apply at any point during your school years?
  - Your household received income support;
  - You received free school meals.
3. Did you care for a parent, child, or other relative at any time between the ages of 11 and 19?
4. At any time during or before your A-levels were you in care or looked after by a local authority?

Level 2 questions

Level 2 questions may require a bit more research on your part. For example, they require accessing national databases about school A-level results and levels of deprivation in different postcodes. The information will be more robust because of this, but will also require more judgement when interpreting its significance. Some of the initial questions that you can ask of candidates have the advantage of being standard application questions.

<b>APPLICATION FORM QUESTION</b>	<b>WHAT THIS CAN TELL YOU</b>
Name of school where A-levels were completed	<ul style="list-style-type: none"> <li>• The type of school someone went to (state, selective, independent, etc)</li> <li>• Average A-level attainment at the school</li> <li>• The proportion of disadvantaged pupils at the school</li> </ul>
Postcode of home when completing A-levels	<ul style="list-style-type: none"> <li>• How deprived the candidate’s neighbourhood was, measured by the index of multiple deprivation</li> </ul>

You should seek specialist legal advice before confirming the details of your contextual recruitment scheme.

### **Step 1: Generate support from leadership**

Once you have decided the types of background information you would like to know about candidates, you can start to make sure there is firm-wide support for the contextual recruitment process. Your aim at this stage is to create a shared vision across the organisation, with senior leaders championing the need for fairer recruitment practices and a more diverse workforce. The use of contextual recruitment will have a lot more credibility amongst staff if they can see that it is actively supported by senior leaders. In practice, this could involve senior leaders:

- Showing how contextual recruitment principles reflect the core values of the organisation.
- Clearly communicating how having staff from a diverse range of backgrounds will help the firm in the marketplace.
- Publishing data on recruitment outcomes annually, with an explanation of good/poor progress.

You will probably find that securing the commitment of senior leaders is one of the easiest parts of this process. Contextual recruitment is becoming increasingly popular, so there are a number of arguments you can use:

<b><i>Everyone else is doing it</i></b>	Universities have been using contextual information to inform their selection of students for a number of years now. There number of law firms also using contextual recruitment is rising too.
<b><i>There's a moral case</i></b>	<p>Social mobility has stagnated in the last few decades. In fact, on some measures, it is actually decreasing. You can find more information here: <a href="http://www.gov.uk/government/publications/social-mobility-indicators/social-mobility-indicators">www.gov.uk/government/publications/social-mobility-indicators/social-mobility-indicators</a></p> <p>If you're interested in how the makeup of the profession is changing the Law Society publishes data on this every two years. Information relating to social mobility is easy to find: just look for data on the type of school people went to and how many solicitors are the first in their family to go to university. The Law Society publishes its reports here: <a href="https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion-charter/diversity-charter-annual-report/">https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion-charter/diversity-charter-annual-report/</a></p>
<b><i>There's a business case</i></b>	<p>There most obvious benefit of using contextual data is that it widens the talent pool from which you recruit. Other benefits include:</p> <ul style="list-style-type: none"> <li>• Better performance from teams</li> <li>• Better retention rates and loyalty</li> </ul>
<b><i>It's cost effective</i></b>	While the suggestions here will require some additional time on your part, they don't require a massive outlay in terms of software or training. Furthermore, once you've set up some of the processes discussed, the amount of time you spend on contextual recruitment shouldn't be onerous at all.
<b><i>And finally...</i></b>	Occasionally people ask if contextual recruitment is positive discrimination. As we hope to make clear by the end of this guide, it isn't. Positive discrimination is unlawful (except in a few, specific circumstances). What contextual recruitment will allow you to do is consider people whose applications may previously have been overlooked. It doesn't take them over the finishing line. You won't be using quotas. Appointments are still made on merit.

## ***Step 2: Modify your application forms***

To allow your organisation to undertake contextual recruitment effectively, you will probably have to modify your existing application form, whether it's online or on paper.

It is important to have a separate section in which contextual data is requested. This section should explain:

- How contextual data will be used.
- That providing contextual data is voluntary and candidates are not required to complete the questions.

There is no set number or form of questions you need to ask. The following might be a useful template to help amend your existing application documents:

1. Did either of your parents/guardians complete a university degree course or equivalent?

Yes No Don't know

2. Did either (or both) of the following apply at any point during your school years?

Your household received income support

Yes No Don't know

You received free school meals

Yes No Don't know

3. What type of school did you mainly attend between the ages of 11 and 16?

- State-funded/state-run: Non-selective
- State-funded/state-run: Selective based on religion
- State-funded/state-run: Selective based on academic ability
- Independent or fee-paying
- Educated outside of UK
- Not sure
- Other

If other, could you please provide us with some brief details

4. Did you care for a parent, child, or other relative at any time between the ages of 11 and 19?

Yes No

If yes, could you please provide brief details (e.g. relation, period of time spent caring, and whether you were the primary carer).

5. At any point during or before your A-levels were you in care or looked after by a local authority?

Yes No

If yes, could you please state when and for how long.

6. Do you remember the postcode of the house you lived in while completing your A-levels? Please provide it here.

7. Please use the space below to tell us anything else about yourself that you think might help us put your achievements (educational, employment, or otherwise) into context. You can include things like: serious childhood illness, speaking English as a second language, multiple schools growing up etc.

### **Step 3: Collate the data**

The questions you ask on your application form will yield two types of answers:

- Those requiring no further research (level 1 questions). This includes whether the applicant's parents went to university, for example.
- Those requiring additional information (level 2 questions). This includes average A-level attainment at the applicant's school, for example.

You do not need to gather level 2 data for every candidate. You can use filters to decide which candidates to collect level 2 data for. The filters that you choose to use – for example, candidates who had caring responsibilities whilst at school – will depend on the types of under-representation you would like to address. In practice, though, it's likely that the biggest influence on your decision will be resources: you simply may not have the time to follow up with as many candidates as you would like.

#### *Part 1: Narrowing the number of applicants you gather level 2 data for*

Attendance at a non-selective state school (question 1 in the suggested application form template above) can be a useful filter because:

- It is **evidence-based**: people who have attended state schools make up more than 93% of the population<sup>16</sup> but only 73% of the legal profession<sup>17</sup>. Those who attended non-selective state schools are even more under-represented.
- It is **encompassing**: the sample of those attending non-selective state schools is more likely to contain other indicators, such as looked after or primary carer status.
- It is **effective**: connected with the above, this indicator will produce a sample size large enough to keep your options open, while at the same time reducing your follow-up list effectively.

Reducing the number of applicants you seek level 2 data for to just those who attended non-selective state schools may be enough to reduce the follow-up group to a manageable size. If not, it will be necessary to reduce the number of applicants still further. The simplest way to do this is to attribute flags to each candidate based on their answers to the level 1 questions.

The number of flags you attribute to each answer can be varied to reflect the interests, make-up, and candidate profile of your firm. However, it may be easiest to attribute one flag to each question, with some caveats:

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<sup>16</sup> Social Mobility and Child Poverty Commission (2014) *Elitist Britain*

<sup>17</sup> Law Society (2015) *Diversity Profile of the Profession: A Short Synopsis*

QUESTION	FLAGGED ANSWER	NOTE
Did either of your parents/guardians complete a university degree course or equivalent	No	
Did either (or both) of the following apply at any point during your school years? Your household received income support You received free school meals	Yes	Maximum one flag for this section
Did you care for a parent, child, or other relative at any time between the ages of 11 and 19?	Yes	Additional information from the candidate may help you understand more about their caring role. See below.
At any point during or before your A-levels were you in care or looked after by a local authority?	Yes	Additional information from the candidate may help you understand more about the time and reason for care. Candidates spending more than three consecutive months in care should raise an additional flag

*What is a carer?*

The Carers Trust defines a carer as anyone who provides unpaid care for someone else who, due to illness, disability, a mental health problem or an addiction, would not cope without his or her support. It is important to note that this can include emotional support, looking after a sibling, and interpreting, as well as more 'traditional' tasks such as administering medicine, providing mobility assistance, or helping with hygiene and personal care. The candidate's additional information should give you some indication as to the type and length of care they provided. Additional flags can be added if necessary.

In formulating your list of 'flagged' candidates you might choose to follow up:

- Everyone who receives at least one flag.
- Those with two or more flags.
- A certain number of people with the highest number of flags – the first five, for example, or the first ten.
- Those who receive certain flags (e.g. state-funded, non-selective school; three consecutive months in care).

The only limitations, really, are the time and resources you wish to invest in the exercise.

## Part 2: Collecting additional data

The aim of this step is to obtain additional quantifiable data that will allow you to compare the candidate's:

- Educational performance with others in their school.
- Educational performance with the national picture.
- Socio-economic background with the national picture.

This toolkit offers an approach that is particularly suited to smaller to medium sized firms. Much of this secondary information is freely and publicly available. However, it can take some time (on average about ten minutes per candidate) to access the data and record it so that it can be considered in the recruitment process. Small to medium sized firms may find this process more manageable than larger firms with a much bigger graduate intake. There are a number of complementary tools currently being developed (e.g. by the Bridge Group) which are likely to include more statistically robust, algorithm-based models to help firms with high-volume admissions to identify applicants on this basis (see useful resources at the end of this toolkit).

### (a) Educational Performance Data

As a basic foundation, we would recommend that you use the following educational performance information available in the spreadsheet that accompanies this toolkit:

Data	What to flag	What it will help you to understand
<b>National average point score per FTE A-level student compared to school average point score per FTE A-level student</b>	If the candidate's school performs lower than the national average.	This can give you an insight into whether the candidate overcame adversity to gain their results.
<b>Candidate average point score (if full time) compared to school average point score per FTE A-level student</b>	If the candidate performed higher compared to the average in their school.	This can give you an insight into whether the candidate performed better than their peers.

We have produced a spreadsheet which contains this data for schools in England (A-level results from 2012, 2013 and 2014). This includes more data than the basic 'foundation' described above for firms that would like to use more contextual information. For example, the spreadsheet describes percentage of pupils achieving 3 A-levels AAB or higher, with at least 2 in a 'facilitating subject' which includes English Literature, History, A language (modern or classical), Mathematics, Geography, or a Science.

The following steps will allow you to work out contextual data for applicants who completed A-levels after 2011:

1. Access the ***school contextual data spreadsheet***
2. Use the tabs to go to the year the applicant completed A-levels
3. Note the national average:
  4. Point score per A-level student
5. Scroll down to your applicant's school
6. Note:
  7. The average point score per FTE A-level student
8. Work out the applicant's A-level point score (note: A\*=300; A=270; B=240; C=210; D=180; E=150; U=O. For AS grades, divide allocated points by two).

Following these steps should allow you to complete a table like the following:

APPLICANT NAME			
SCHOOL RANKING			
	APPLICANT	AV AT SCHOOL	NATIONAL AV
A-LEVEL POINT SCORE			

Note that the candidate's school may not appear on the spreadsheet. This can be for a number of reasons: not all schools release the same type of data, and in some cases information may be suppressed if it pertains to two or fewer people. If this is the case you could try searching for data from the year before or after using:

[www.education.gov.uk/schools/performance/archive](http://www.education.gov.uk/schools/performance/archive)

This information should be used with some caution, however. You should also note that the spreadsheet only contains information relating to schools in England. If the applicant went to a school in Wales please consult the Wales-specific version of this toolkit, which explains how to access Welsh A level data.

*(b) Socio-economic background data*

The following steps will allow you to work out how deprived the neighbourhood was where your applicant grew up. The measure we'll be using is called the Index of Multiple Deprivation (IMD). The IMD is useful and accessible measure of relative deprivation for neighbourhoods in England. It measures things like:

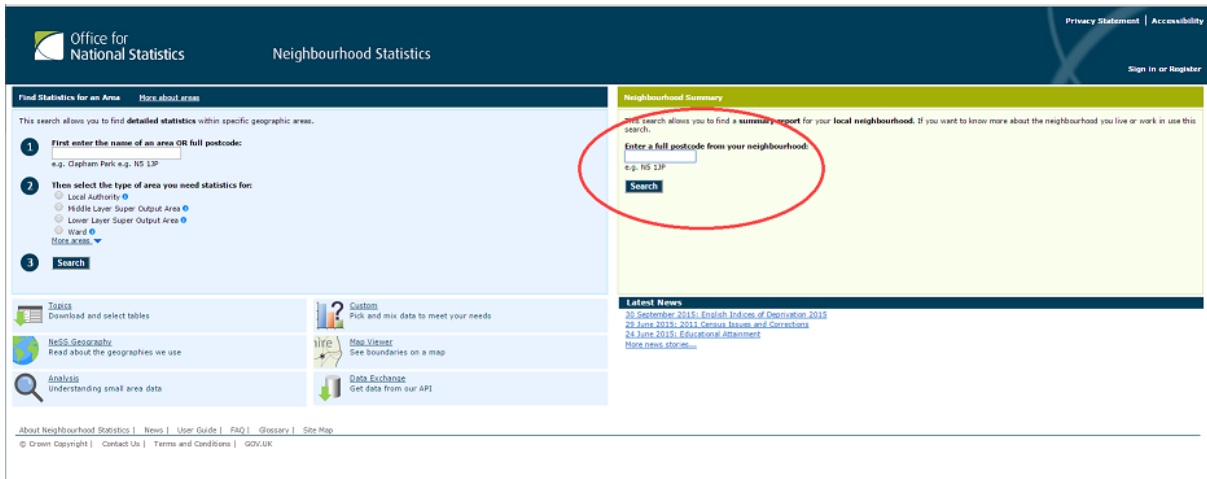
- Income deprivation
- Employment deprivation
- Education, skills and training deprivation
- Health deprivation and disability
- Crime

The IMD combines information relating to these different factors to rank every neighbourhood from 1 (most deprived area) to 32,844 (least deprived area). Go to:

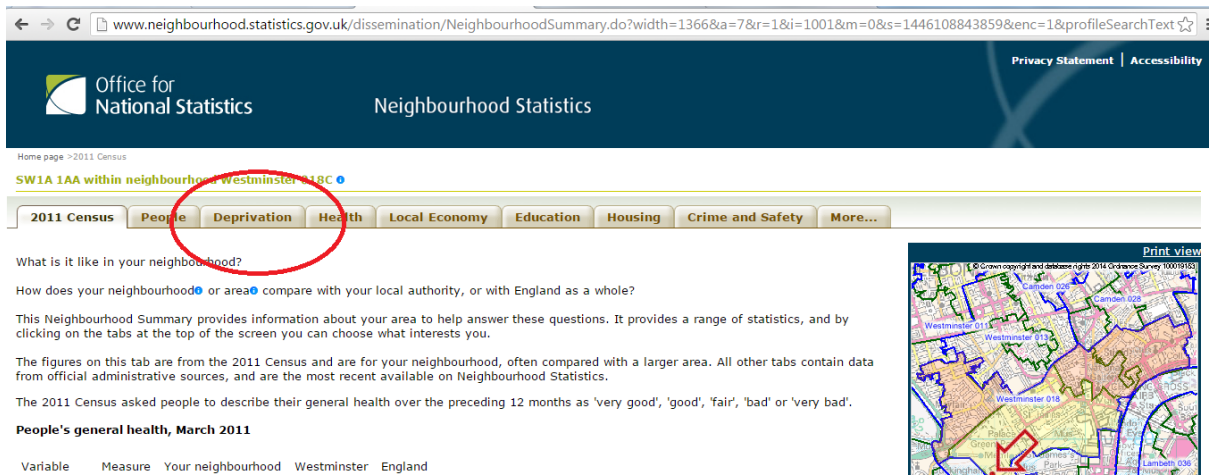
[www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)

You should reach a page that looks like this. Enter your candidate's postcode in the section called 'Neighbourhood Summary'





The next page should look like this. Click on the tab labelled 'Deprivation'.



All being well, you will find yourself on a page with a graph like this. Hover your mouse over the graph and a label will appear giving you a ranking for the neighbourhood. Remember, 1<sup>st</sup> is the most deprived area; 32,844<sup>th</sup> is the least deprived.

Home page > 2011 Census > Deprivation

SW1A 1AA within neighbourhood Westminster 018C

2011 Census | People | Deprivation | Health | Local Economy | Education | Housing | Crime and Safety | More...

**Is your neighbourhood good for employment but bad for health?**

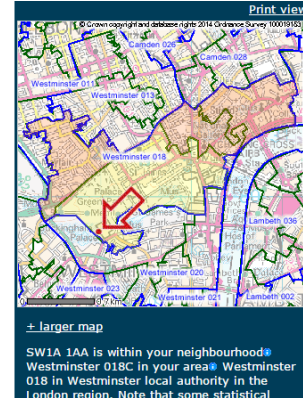
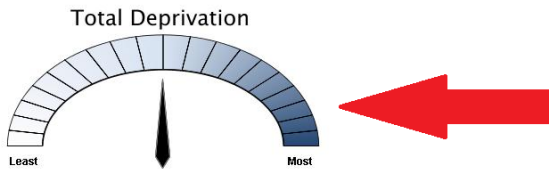
All 32,844 neighbourhoods in England have been ranked on a range of deprivation topics. The most deprived neighbourhood in England has a rank of 1.

To see the rank from this neighbourhood, hover your mouse pointer over the relevant graph below.

These markers show the overall deprivation ranking for this area. The further to the right the marker, the higher the level of deprivation for this area.

'Total deprivation' and 'overall deprivation' is the Index of Multiple Deprivation (IMD).

These data are taken from the Indices of Deprivation 2015



IMD rankings are often expressed as a decile, showing where the neighbourhood is on the most-least deprived spectrum:

Neighbourhood ranking	Decile	
1	3,284	1 Most deprived 10%
3,285	6,568	2 10% -20%
6,569	9,852	3 20%-30%
9,853	13,136	4 30%-40%
13,137	16,420	5 40%-50%
16,421	19,704	6 50%-60%
19,705	22,988	7 60%-70%
22,989	26,272	8 70%-80%
26,273	29,556	9 80%-90%
29,557	32,844	10 Least deprived 10%

If the applicant grew up in Wales, please refer to the Wales-specific version of this toolkit to see how to obtain data on deprivation relating to neighbourhoods there.

**Step 4: Make a decision**

You should now have a range of data to help contextualise an applicant's educational and other achievements. To reiterate, contextual information doesn't tell you who should be shortlisted for a particular activity: it only highlights people whose achievements might otherwise be overlooked.

Ultimately this final phase now comes down to your judgment. You will have to decide if someone displays the characteristics that will make them valuable to your firm.

Some decisions using contextual information may be easier to make. For example, a student who lived in one of the 10% most deprived areas of the country while doing their A-levels and spent prolonged periods of time caring for a relative would perhaps merit reduced A-level requirements. However, what would you do if contextual information is less

clear-cut? For instance, if a candidate lived in one of the 50% most deprived areas in the country, would this qualify as 'less-advantaged' to your firm and merit reduced A-level requirements for them? If their school's average A-level score was 720 points, but they scored 780 points would you regard them as performing significantly better than their peers?

There is no definitive answer to this. Ultimately the final decision about whether or not to make an adjustment for applicants from less advantaged backgrounds is a judgment call and will come down to a range of factors:

- Your existing staff makeup.
- The demographics of the area you serve.
- Your firm's aspirations for improved social mobility.
- Your firm's agreed recruitment scoring process.

As a guide, at the initial application and pre-assessment stage there is merit in having scoring processes that are 'generous' to candidates who appear either to have overcome the odds in terms of their educational performance, or who have achieved slightly lower A-level results compared to other candidates but have a disadvantaged background. These candidates will still need to perform strongly at assessment and/or interview to secure a position.

Possible adjustments for applicants from less advantaged backgrounds might include:

- Reduced A-level requirements (A-level results of students from less advantaged backgrounds can be artificially reduced by their life circumstances and may not reflect their potential). Many firms will agree a 'minimum' A-level requirement which is deemed to be the lowest score any candidate will need to have in order to progress to the next stage of recruitment. Students from less advantaged backgrounds will thus qualify for this 'minimum' requirement.
- Recognition of paid jobs, caring responsibilities and community-based activities while at university as alternatives to more 'traditional' university-based extra-curricular activities (students from less advantaged backgrounds may be less able to participate in some extra-curricular activities due to other commitments).
- Additional outreach and support for applicants from less advantaged backgrounds at pre-assessment stage, or providing mentoring support for particular parts of the application process to candidates that may not have that sort of support available.

### ***Step 5: Monitor the contextual recruitment process and support integration of new employees***

Once implementing a contextual process you need to know whether over time it is doing what you want it to. You will already probably be monitoring your firm's progress in promoting social mobility (through equality monitoring processes). Over time you can use this monitoring data to consider the impact that contextual recruitment has had on levels of trainee solicitor diversity in your firm. If you notice parts of the firm or particular stages of the recruitment process where progress is slower, then you can adapt and improve your contextual recruitment process to respond to this. Similarly, if you notice higher turnover rates amongst recruits from less advantaged backgrounds this can be examined too.

Finally, when new recruits from less advantaged backgrounds join a firm it is important that they are supported in their transition to the firm. This is not about providing 'special' treatment to those new employees. Indeed, other recruits will need support too. However, it is important to ensure that all recruits have access to the right type of support when entering a new working culture. For example, you could train and supporting existing staff to recognise signs that new recruits may be struggling and you could ensure there are routes to addressing this through mentoring/befriending type roles.

## USEFUL RESOURCES

### Written Guidance

The Bridge Group (2015) *Good Practice in Contextual Recruitment*  
<http://www.thebridgegroup.org.uk/wp-content/uploads/2015/08/Contextual-Recruitment-Aug-2015-FINAL1.pdf>

Social Mobility and Child Poverty Commission (2014) *Elitist Britain*  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347915/Elitist\\_Britain\\_-\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347915/Elitist_Britain_-_Final.pdf)

Banajai, M. and Greenwald, A. (2013) *Blindspot: Hidden Biases of Good People*, by Mahzarin Banaji and Anthony Greenwald

Law Society of Scotland Guidance on Recruiting Trainees  
<http://www.lawscot.org.uk/education-and-careers/recruitment-guidance/>

Professions for Good (2012) *Social Mobility Toolkit for the Professions*  
<http://www.raeng.org.uk/publications/other/social-mobility-toolkit>

The 'Schwartz Report' on the implementation of contextual recruitment in the Higher Education Sector offers a useful introduction to some key legal concerns: Admissions to Higher Education Steering Group (2004), *Fair admissions to higher education: recommendations for good practice*

### Practice Advice Service

The Law Society provides support for solicitors on a wide range of areas of practice. Practice Advice can be contacted on 020 7320 5675 from 09:00 to 17:00 on weekdays or email [practiceadvice@lawsociety.org.uk](mailto:practiceadvice@lawsociety.org.uk)

### Law Society Consulting

If you require further support, Law Society Consulting can help. We offer expert and confidential support and guidance, including face-to-face consultancy on [human resources](#). Please contact us on 020 7316 5655, or email [consulting@lawsociety.org.uk](mailto:consulting@lawsociety.org.uk).  
[Find out more about our consultancy services.](#)