



Gender Diversity Survey

Insights Report

10 December 2020



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Background

We recently conducted the first of what will be quarterly surveys to collect data about how the legal profession is going with respect to diversity, inclusion and belonging, and including from an intersectional perspective. This data will assist in establishing a baseline that determines and/or influences the Digital Law Association's priorities and efforts around gender diversity at the intersection of technology and the law.

This initial survey was conducted as part of our official launch event, held on 24 September 2020, and is focused on gender diversity and workplace culture. The survey was circulated to all attendees of the event and included a total of 68 anonymous respondents of male, female and non-identified gender respondents. The survey had male, female and non-identified gender respondents from the UK, Australia, Asia the Middle East and Europe.

Although this was a non-scientific canvassing of responses, based on a non-random sample, our high level takeaway is that gender has, at minimum, a perceived impact on career progression and work. While the majority of workplaces take into account gender diversity in their hiring, firing and salary practices, it is still the case that a number of workplaces formally operate with what would be considered "gender neutral" procedures that do not account for the experiences of different genders in the workforce.

While at first blush operational practices that do not actively control for gender might seem like a good thing, it is also possible that they obscure operational practices that are better suited to one gender over another.

Off the back of these results, the DLA will consider whether to pursue any formal submissions concerning legislative changes to gender balance in public legal processes, offices and public companies. Please indicate if you are interested in or would like to assist with this process [here](#) by providing a comment in the skill's field.

Survey results

- Almost 60 percent of respondents felt that gender had impacted their career progression.
- Just over 76 percent of respondents knew of instances where gender had impacted their colleagues' career progression.
- Close to 80 percent of respondents felt that their gender impacts the way their work is perceived or received. With a breakdown of this result being: sometimes (40%), often (32%) and always (6%).
- Almost 50 percent of respondents reported that gender diversity is always (20%) or often (28%) understood and valued at their workplace, and 40 percent saying gender diversity is sometimes understood and valued.

- A perhaps surprisingly high number of respondents, 70 per cent, agreed that there should be legislated requirements for gender balance in public legal processes, offices and public companies. However, a clear 13 percent of respondents did not agree.

The balance of responses provided rich commentary and further questions for consideration. These include by way of example:

- How are public legal processes and offices currently impacted by lack of gender balance?
- What does gender balance actually mean?
- How would gender balance be defined?
- How to ensure that “the right person for the right job” is appointed if quotas are legally imposed?
- Do quotas work? In a recent study by Maida and Weber, it was found that whilst legal reform to introduce board quotas substantially raised the female membership on corporate boards, there was no evidence of spill over effects on the representation of women in top executive or top earnings positions.
- How would the legislation be enforced?
- Should mandatory education about diversity and the value of diversity in a workplace be legislated? Should mandatory education be targeted at the higher levels of management only?
- A cultural shift in mindsets to value diversity and minorities would be most beneficial - think of ways to shift mindsets outside of legislated requirements.

Further Insights

The academic literature in relation to the retention and advancement of women in the legal profession has identified reasons for persistent promotion and pay gaps that are both varied and voluminous. What we understand from the academic literature is not that there is one “problem” to be addressed here, but many. From the start of their professional careers, women are confronted with a range of systemic and institutional factors that all contribute to these gaps. This can stem from cultural and societal factors such as gender-based stereotypes and in-group bias, which manifest in a range of practices and processes within the profession (including evaluation and performance management, access to informal mentoring and sponsorship opportunities, the availability and cultural acceptance of part-time and flexible working, and the actual or perceived ability of women lawyers to meet “always-on” expectations of availability). This ultimately impacts the retention and promotion of women lawyers, providing younger women lawyers with fewer role models to look up to and increasing the mentoring responsibilities for those who remain. These issues are compounded for women of colour and those who experience greater discrimination due to their intersecting social identities.

One evident factor impacting the advancement of women in the legal profession is the prevalence of sexual harassment across the profession. A recent survey conducted by the Women Lawyers Association of NSW showed that more than 70 percent of female lawyers surveyed reported being sexually harassed, with many saying they were subject to unwelcome touching, objectification and repeated advances in the workplace or at social events. Drawing upon their survey data, the Women Lawyers Association prepared a [submission](#) to the Australian Human Rights Commission's National Inquiry into Sexual Harassment in Australian Workplaces (**Inquiry**). Amongst a number of recommendations, the Women Lawyers Association has called for employers to be legally required to maintain a workplace free of sexual harassment and that a duty should be imposed on employees or "bystanders" who witness misconduct to report it. The Law Society of NSW also made a [submission](#), and called for a mandatory reporting scheme to hold workplaces publicly accountable for sexual harassment situations that may otherwise be kept quiet internally.

On 5 March 2020, [Respect@Work](#), the Australian Human Rights Commission's report of the Inquiry was released. The Sex Discrimination Commissioner, Kate Jenkins, delivered the report with a sense of urgency and hope, saying:

"The current legal and regulatory system is simply no longer fit for purpose. In this report, I have recommended a new model that improves the coordination, consistency and clarity between the anti-discrimination, employment and work health and safety legislation schemes.

The new model is evidence-based, victim-focused and framed through a gender and intersectional lens. It is also based on existing legal frameworks to avoid duplication, ambiguity and undue burden on employers. Importantly, it recognises the complementary and mutually reinforcing nature of the three schemes, while also recognising their distinctive features."

It will take time - hopefully not too much time - to see the Recommendations of the Respect@Work report find their way into hard and soft laws, regulations and industry policies.

We commend the work of the Commissioner, her team, and all those involved in the Inquiry and we look forward to seeing the various Federal, State and Territory law associations implement the Recommendations.

Beyond these Recommendations, the profession will need to continue to grapple with the many problems and factors impeding the retention and advancement of women lawyers. As the profession itself experiences greater disruption and digitalisation in the coming years, it will also need to consider whether new generations of lawyers -- women and otherwise -- are willing to accept the long hours and other trade-offs involved in seeking to advance to law firm partnership or leadership roles within the profession.

Our commitment

In the meantime, what we at the Digital Law Association believe we can do is act as a safe space for lawyers, technologists, students and workers to find inspiration or reacquaint themselves with their aspirations to learn, achieve and contribute to important issues at the intersection of law and tech. We think that existing as a safe space for people to be involved

in interesting and meaningful work, with respectful and inclusive others, is our way of intervening early.

One of our key priorities will be to nurture professionals, especially those that are new and newer to the professions, to aspire to top and leadership positions. In committing to this priority, our intended result is to close the gender career gap, the gender promotion gap and the gender pay gap by impacting one volunteer at a time.

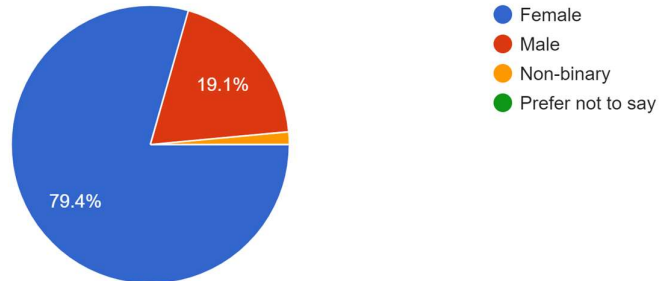
We'd love for you to join us.



Digital Law Association: Gender Diversity Survey Results

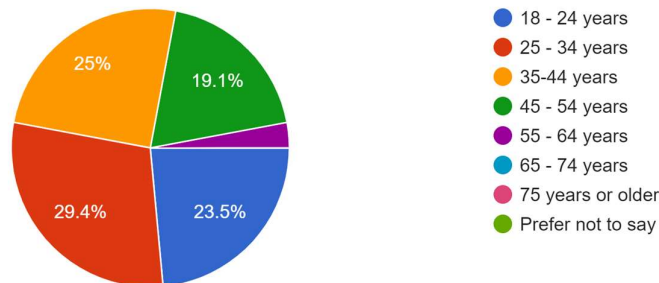
What is your gender?

68 responses



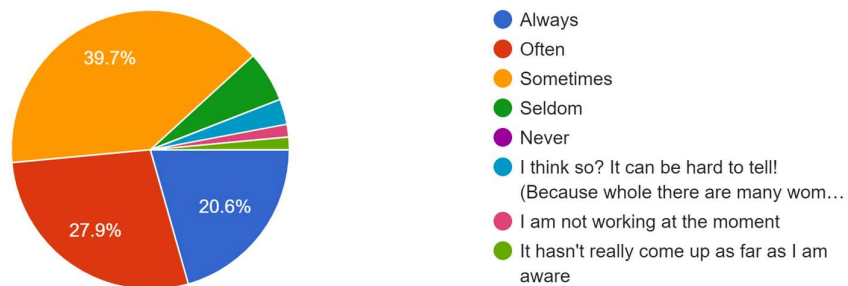
What is your age range?

68 responses



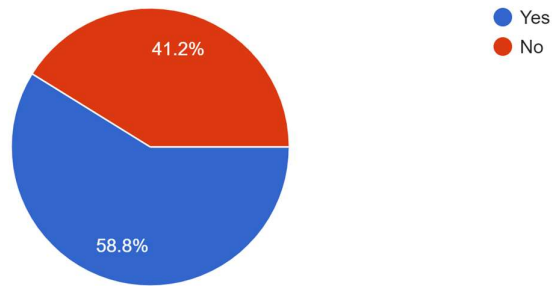
Do you feel that gender diversity is understood and valued at your workplace?

68 responses



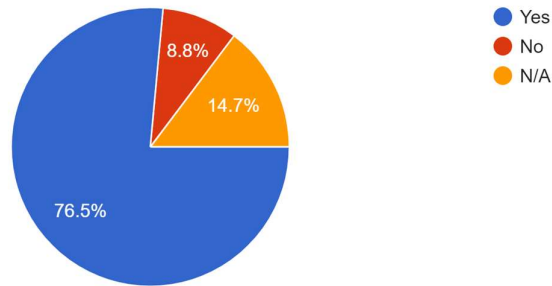
Do you feel that gender has impacted your career progression?

68 responses



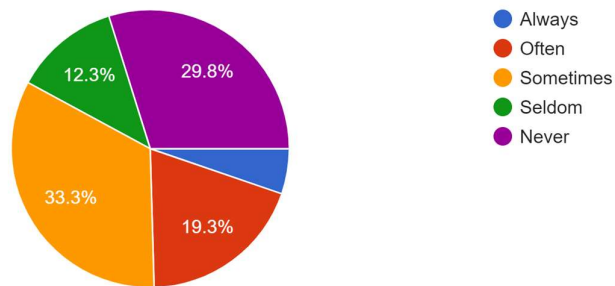
To your knowledge, has gender ever impacted any of your colleagues' career progression?

68 responses



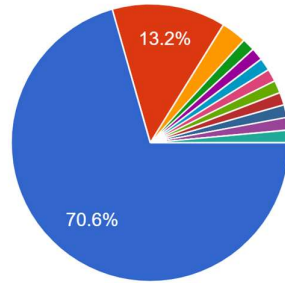
To your knowledge, has gender ever impacted you or someone in your network receiving funding for technology development?

57 responses



Should there be legislated requirements for gender balance in public legal processes, offices and public companies?

68 responses



- Yes
- No
- best person for the role not because o...
- Not sure. I would want to know more a...
- I don't necessarily agree with legally i...
- Depends on the legislation, I don't beli...
- Really hard question, because it is a s...
- Hard question, not sure. Depends wh...

▲ 1/2 ▼

CONCLUSION

About the Digital Law Association

The Digital Law Association is an organisation dedicated to the promotion of a fairer, more inclusive, and democratic voice at the intersection of law and technology.

Our mission is to encourage leadership, innovation, and diversity in the areas of technology and law by:


- bringing together the brightest legal minds in the profession and in academia to collaborate; and
- developing a network that promotes digital law, and particularly female leaders in digital law.

This report has been contributed to by the following Digital Law members:


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