
Law in Sport Diversity and Inclusion Working Group
Race and Ethnicity in Sport Oral History Project

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Transcript: X X

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Nancy Brobbey

What is your conception or idea of diversity? To what extent do you consider sport and or law to be diverse?

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Informed by the Equality Act, diversity means that there is a range of experience and ideas. You don't have one homogenous group; you have a representation across different groups. We're looking for diversity amongst sex, race, age, disability, ability, sexual orientation, and we'd like to see all the groups represented. It's like a project perspective, because diversity includes all those different types of groups.

We want to have diversity, because the best decision makers, or the best organizations that make very good or innovative decisions are informed by a diverse group rather than, just for example, at a leadership level, being dominated by one demographic, white men of a certain age, etc. where you're not going to get a broad perspective. Everything we know about expertise in this area, such as reports and research through Harvard and McKinsey says that the most effective companies, the ones that retain the most innovative individuals, and also get the best results – whichever way you measure it, whether it's profit, turnover are the ones that have a broad level of diversity. In fact, the more diversity you have, the more likely you are to increase the success exponentially. So I think it's important to flag up all of that when we talk about diversity.

What does it mean to me, I think that with diversity, you want to give individuals an opportunity to flourish. Everybody should have that equal opportunity to reach their full potential. It's also about breaking down barriers, and allowing accessibility, that's also part of diversity, because you need to ensure this ability to actually progress. Representation matters, so diversities across all spaces. It shouldn't be just to say that you have an organisation, which might be quite diverse at the junior level, but when you go up in seniority, the diversity drops off. What I'm looking for is diversity throughout all levels, so that individuals can play a full part in society.

Nancy Brobbey

To what extent do you consider sport and or law to be diverse?

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I think for both of these areas, there are challenges in diversity. There are also intentions to improve, but they are not fully diverse in terms of reflecting society. If you take law, for example, in the legal professions, whether it's legal execs, solicitors, barristers, that we are providing a public service; a strong bar is one that reflects all of the society that we seek to serve. That's really important, that's why I said representation matters before. In the context of the legal profession, that's really important. In the context of sport, it's equally important, because what you often see in sport is diversity in terms of the particular game, diversity on the pitch in football, for example, but when you go off the pitch, and you look at coaching and management, senior levels, and board members, you see a distinct lack of diversity.

There are a lot of improvements to be made in terms of diversity in sport. I think it's vitally important, when you have diversity, you have not only representation, which I think in itself is valuable, because it inspires people; but you are also going to get better decision-making and better results because you can have an inclusive environment. Everybody's thoughts and processes are much more likely to be recognized than if you just have leadership, in sport mainly, men of a particular age, race etc. for example, who tend to dominate these fields generally. Within the field we are in a process, in particular during the last 12 months, of trying to really make improvements. We've got a long way to go and a lot more work to do, but I think it's important that the dialogue has shifted up again. If you're going to get a cultural shift, you need to have knowledge, awareness and intention to change. I think we're moving in the right direction for that.

Nancy Brobbey – Follow up questions

What sort of barriers do you think might still exist?

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We can see that the barriers exist, because when we look at statistics, they tell you a story. It's not something necessarily overtly tangible, this is where you get into systemic or institutional types of discrimination, things are geared up in a certain way. It will just naturally disadvantage particular groups, because perhaps they didn't go to a certain school and they don't have a network. In sports, it's often this unspoken networking thing, rather than an open system of recruitment. Now if you are not in that network, if you have a different race, or religion, or you're of a different sex or disability, you may not naturally be in that network, so you'll be excluded; that's a barrier, maybe you didn't go to that school, maybe you didn't have those familial connections that others do. It's not just necessarily that you've passed an exam, lots of people have passed the exam, but they're still not getting the opportunity, because there's a lot more that goes into it. I think we have to be more conscious of how these barriers can operate to impede representation for other groups.

Nancy Brobbey

What motivated you to choose a career in the realms of sports and law?

What are the notable barriers you can identify?

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I decided to be a Barrister when I was about seven years old, I was quite determined about it. When I was a teenager, lots of people along the way told me “that's unlikely”, or they laughed. This would happen because a lot of people just thought - well you need to have lawyers in your family, you know, “you're the wrong this and the wrong that and it's not going to happen”. These responses actually just made me more determined, because that's my personality type. This is what I wanted to do; I think it had a lot to do with my environment growing up, in a society that didn't seem very

equal to me. I was part of a single parent family on a council estate in Hackney and I saw a lot of injustice. My mother was a nurse and very active in trade union activity. I remember seeing her on television and standing up for workers' rights. That's probably why I went into employment and equality law. I do remember reflecting on this last year and my first employment win was actually preparing the re-grading submission for my mum. We got her grade and her colleagues' grades increased. I did that when I was about 15 years old. I think all of these things motivated me. In the area of sports, I became particularly interested in equality and diversity, because I felt, and I still feel, that there is this sort of belief that somehow sport is outside of the Equality Act. If you take football as a high-profile example, you can just sort of operate without having open and transparent employment procedures, whereas in other areas, other sectors that are much more aware of the fact that they need these procedures. I was told sports was lagging behind the rest of other areas of practice. I also felt that individuals in the sporting field were less likely to challenge it and much more likely to fear reprisals if they did challenge it. I've often said, we actually benefit from some of those individuals taking on cases on these points. When you have a recruitment process that lacks transparency, for example, that's very likely to breach the Equality Act, in particular in terms of indirect discrimination, it operates as a barrier for open recruitment or more diversity and inclusion. That's one of the things that I see in sports, additionally in terms of board representation, managerial representation and senior positions, I think that's one of the main areas for sport. One of the things that attracted me to try and get involved was to see how we could really improve this. That's one of the things that I've been working on for a number of years, since really getting involved into sports, and more recently, working on the diversity and inclusion group, with Sean Cottrell, of Law in Sport. I have been chairing that group, which has been a really good opportunity to bring together minds from all different areas of sport, to try and really raise the game of sports in terms of diversity and work together for improvement in that.

Nancy Brobbey

Have you faced or continue to face any barrier individually along the way? How have you sought to respond to these barriers?

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I feel that I have achieved a lot in my career, could I have achieved more? Have I suffered from barriers? I can possibly identify some. What have I done about it? Well, I'm very active in the field of law in terms of the progression and retention of barristers, of those with protected characteristics, including race, sex and religion. I co-chair the bar Council's Diversity Social Policy Committee, so that's a really practical way for me to be involved in trying to improve these areas, working with various stakeholders, including within the bar, but also outside the bar, such as working with the Law Society, to try and improve those issues. I think that's been very positive and I've always been someone who was involved in actually trying to improve things by way of committees or working with various groups, and not just sort of looking inward to myself, but actually trying to prove it for everyone because I think that's really important. Alongside all of that, mentorship has been one of the main ways how I've sought to contribute and improve and assist those who are coming up, and who are facing similar issues, to try and really guide them through that journey, through their choices, so that they can have the opportunity to get their careers off the ground as well. Sometimes it's unconscious biases and sometimes it's training that can make a difference because you could have a particular individual or individuals that are just not open to certain things; they can actually act as a barrier. Sometimes it's a system, promotions for example, it could be how that process works, that will advantage or disadvantage others. It can be various things, it can be tangible, it can be intangible, and so we have to be aware of all of these things, how they work together, and how they can actually manifest unequal opportunities and unequal outcomes.

Nancy Brobbey

If you could do just one thing in this realm in order to make sport more inclusive and more diverse, what would that be?

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I think I would aim for the top, I'd like more diversity in the boards and within senior management because you want to see diverse leadership from the top. I believe that diversity comes up from the bottom and down from the top and meets the middle. One of the most challenging aspects is getting at the top level. If I could do one thing, I get it embedded in the boards and the senior

management, because I think you would see over a period of time an improvement, if that occurred. I believe it will occur, but the progress is slow, and we need to be more proactive. First of all, transparency, what are the statistics? Accountability, what are you doing? What training are you doing? What are the positive actions in law under the Equality Act? What positive action initiatives are you doing to encourage more inclusivity in your organisation, actual defined points, written down targets - this is what I'd like to see.

Nancy Brobbey – Follow up question

What would the kind of retention look like in those types of organisations?

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We need to improve retention of individuals, because quite often what we see is, if you take for example race as a characteristic, you'll see recruitment at junior levels, but then, you don't necessarily see progression, and then you see individuals leave. At the bar, as an example, you'll see a lot of women will leave after a certain level of progress before they reach these senior levels, such as QC and judges. So that has a direct impact on gender diversity at the bar. What does it look like when you improve it? When you improve things like retention, you are much more likely to see progression up the chain into leadership positions into seniority within organisations. Recruitment is important, but we cannot rest on our laurels just because we have recruited more diverse individuals. We've got to really channel that through in terms of retention, so that we can see the progression upwards.

Nancy Brobbey – Follow up question

What are some examples of strategies that organisations could use to promote retention?

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Organisations need to effectively create an action plan that's tailored to them. What does it look like? It's unlikely to include things like training, it may include an initiative to target recruitment of individuals, if that falls within the positive action criteria. You sometimes see adverts for a particular role, they'll say 'we encourage applications from X,Y and Z'; that's the sort of thing employers can do. They can set themselves a target, we want to see 10% improvement here, or

5% improvement there. Targets focus the mind, if you've got something that's tangible, that you are working towards, you're much more likely to reach it than if you're just going about your day-to-day business.

It starts with an intention, an actual action plan, which is likely to include training and having the right policies in place. The training is really important, including the monitoring of your statistics, and looking at practical steps under the positive action provisions of the Equality Act, which include things like mentorship, training, encouraging applications, and also looking at tiebreak provisions. Lawfully under the Equality Act, if you meet the criteria, such as having an underrepresented group, within your organization, in comparison to society outside, then you can use these provisions. I find most employers either don't know about them, or are reticent in using them because they are worried, they're scared and they're apprehensive. But one of the other things they can do is the tiebreak provision. If you've got two qualified applicants with the same qualifications, the same level of experience, you can choose to employ the one from the underrepresented or disadvantaged group. My area of practice stems from the Equality Act and I do think that these provisions can be very powerfully used, but organisations need to take advice. They need to understand them, and build it into an action plan, which has a number of different factors, working towards serious intent to improve the quality of diversity and inclusion.

Nancy Brobbey – Additional question

We have reached the end of the interview, are there any final comments that you wish to make?

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I'm really grateful that we have sparked this more dynamic dialogue that has occurred since last year. I am hopeful that this is an excellent opportunity to really highlight these factors, move things forward and achieve meaningful change because that's what we're working towards. We want this to be meaningful, lasting change, it starts with a dialogue and a strong intention. Hopefully, we can keep the momentum going to make sure that we get the results that we want to see; who doesn't want to live in a society where there isn't equality and diversity and fairness? I can't see why you wouldn't want to. So that's what we're after.

END

Interview with X X

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Published Online September 2021

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Keywords

Race

Ethnicity

Sport

Diversity

Gender

Society

Subjects

Sports Law

Sports

Equality

Public Policy

