

# **Chambers Manual Equality & Diversity Code**

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## Introduction

1. Our Equality and Diversity Code is designed to reflect and support our commitment to equality of opportunity and to promote good equal opportunities practice in Chambers.
2. The Code is designed to be consistent with the BSB Handbook/Code of Conduct the Bar Council's Fair Recruitment Guide, and the relevant legislation prohibiting direct or indirect discrimination.
3. The Management Committee has overall responsibility for the provision of equality of opportunity in Chambers and has appointed Hugh Davies OBE QC (Barrister) and Alison Marshall (Chambers Manager) to be our Equality and Diversity Officers (EDOs). We also have an Equal Opportunities Committee with responsibility for implementing, monitoring and reviewing the operation of this Code and ensuring that tenants, pupils and employees are kept informed of their obligations on equal opportunities matters.
4. An up to date copy of this Equality and Diversity Code is available electronically within Chambers and is also published on our website.

## Policy Statement

It is the policy of Three Raymond Buildings:-

- to ensure that its tenants, pupils and staff will not discriminate directly or indirectly against, bully or victimise anyone on the grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- to provide a safe and socially responsible working environment;
- to promote equal opportunities for people wishing to join our organisation

This statement applies to:

- the recruitment processes through which tenants, pupils and staff are selected;
- the conduct and treatment of all tenants, pupils and staff during their tenure in Chambers, including training and career development, and
- the treatment of professional and lay clients

**Section A: Definitions****1. Direct discrimination**

1.1 Direct discrimination occurs when any of the protective characteristics outlined in the policy statement above are used as a reason for treating someone less favourably than others are, or would be, treated in the same or similar circumstances.

1.2 If a person shows that they have been treated less favourably than another, and there is evidence to suggest that this may be on one of the prohibited grounds set out above, then an unlawful act of discrimination has been committed unless it can be demonstrated that:

- (i) the relevant characteristic played no part in that treatment, or
- (ii) the part played by that characteristic can be justified (see section 3 below).

**2. Indirect discrimination**

2.1 Indirect discrimination may arise when there are rules, regulations or procedures operating which have the effect of discriminating against certain groups of people.

2.2 Indirect discrimination occurs where:

- (i) a requirement or condition is applied equally to everyone but has the consequence of placing people with a particular characteristic (for example, a racial group, one sex, or a group holding a particular religious belief) at a disadvantage,
- (ii) the particular individual cannot comply with the requirement or condition,
- (ii) this results in detriment to that person or group, and
- (iv) the requirement cannot be shown to be objectively justifiable in spite of its discriminatory effect.

**3. Direct and indirect discrimination: Justification**

3.1 In some cases, an act of direct or indirect discrimination by a person may not be unlawful if that person can prove that the action taken, or the practice, provision or criterion used, is a proportionate means of achieving a legitimate aim.

3.2 A "legitimate aim" would include:

- (i) some economic factor, including for example the needs of a business or the efficiency of running that business,
- (ii) the health, safety and welfare of those engaged in the business,
- (iii) the particular training requirements specific to a job.

- 3.3 “Proportionate” in this context could mean:
- (i) that Chambers has no reasonable alternative to the practice, provision or criterion being applied (but if the aim could be achieved by another, less discriminatory means, then Chambers must adopt the latter), or
  - (ii) that the discriminatory effect is in some way significantly outweighed by the importance and benefits to Chambers of the legitimate aim.

#### **4. Harassment**

4.1 Harassment is any form of unwanted conduct which has the aim, or effect, of diminishing a person’s dignity or creating a humiliating or offensive environment for that person. The test is a subjective one. The fact that one person may be able to ignore or deal comfortably with certain behaviour does not mean that it is acceptable if directed at another.

4.2 Our Harassment Policy forms part of our Chambers Manual. We will not tolerate any form of harassment, and will take all necessary steps to ensure that no one in Chambers is subject to it and that tenants, pupils, employees and others temporarily in Chambers (such as mini-pupils) have a right to complain if it occurs.

#### **5. Victimisation**

5.1 Victimisation consists of the less favourable treatment of anyone who has brought proceedings or given evidence or information for the purpose of legal or disciplinary proceedings or who has made a complaint or brought forward a concern based on an allegation of discrimination (including harassment).

5.2 We are committed to ensuring that no one who brings forward such a concern or complaint in good faith is subject to any form of reprisal. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be viewed as a disciplinary matter. The raising of such a complaint or concern will not have any adverse consequences for the complainant, particularly in relation to tenancy and promotion decisions.

**Section B: Recruitment and Selection of Tenants, Pupils and Employees****1. General**

1.1 The same broad principles apply to the fair recruitment of pupils, starter tenants, established tenants and employees. In all matters relating to recruitment and selection, the procedures followed will be consistent with our Equality and Diversity Code, and those involved in recruitment and selection will also have regard to our recruitment policies, which reflect the guidance contained in the BSB Handbook and the Fair Recruitment Guide.

1.2 In complying with our Policy Statement, we aim to ensure that our recruitment and selection procedures are:

- **Transparent:** set out in a document available to all on request;
- **Objective:** the selection criteria agreed for the post are objective and relate specifically to the demands of that post;
- **Consistent:** save for exceptional circumstances, applied equally to all potential recruits;
- **Assumption-free:** not influenced by stereotyping or unconscious bias;
- **Democratic:** reflecting the views of a broad spectrum of people; not subject to the will or unexplained veto of one person;
- **Monitored:** candidates will be asked to complete an equality and diversity monitoring form and any resulting statistical data will contribute to reviews of our recruitment and selection procedures.

1.3 If given sufficient notice, we will make reasonable adjustments for candidates at the application stage of any recruitment process. Such adjustments may be required by reason of personal circumstances, physical or mental health issues, disability or other factors and would include:

- flexible timing to take account of any parental or caring responsibilities, observance of religious holidays, medical conditions or other personal circumstances.
- wheelchair access ground floor interview rooms, large print instructions, hearing loop induction,
- extra preparation time required for any of the reasons outlined above

During pupillage recruitment at application and first interview stage, pupils are asked if they have any special requirements. Once any needs are identified, the candidates are contacted by the Pupillage Secretary to discuss in more detail so that the relevant adjustments can be put in place.

We will make reasonable adjustments for any successful candidate to undertake pupillage and/or to remain in self-employed practice. This applies to any stage of pupillage or tenancy, whether a requirement for flexibility is in place at commencement or becomes necessary at a later stage.

During pupillage, the routes to identifying/discussing the need for flexibility are through the pupil supervisor, the pupil liaison officer, or the wellbeing officer (listed as points of contact in the pupillage contract)

- 1.4 All those involved in recruitment are made aware of our selection and interviewing procedures through policy documents, induction and training.

**2. Recruitment and selection of pupils**

*Reference document: 0401 Chambers Manual – Pupillage Recruitment Procedure*

- 2.1 We currently offer up to three funded 12 month pupillages each year, using our own application process.
- 2.2 We occasionally recruit third six pupils and these vacancies are advertised on the Bar Council website, on the notice boards at the Inns of Court and in court robing rooms.
- 2.3 We also offer a limited number of unassessed mini pupillages of one week to students who are in their second or third year at University, and/or to those who are considering applying to Three Raymond Buildings for pupillage. Owing to the confidential nature of our work and restrictions at some courts, mini-pupillages are not offered for work experience placements or visits to anyone under the age of 18.
- 2.4 The selection criteria applied in assessing applications, together with the format and general content of interviews, are outlined on our website and in our Pupillage Manual: Recruitment Procedure.
- 2.5 Shortlisting is carried out independently by selection panels comprising more than one person, and interviews are conducted by no fewer than three tenants.
- 2.6 The pupillage selection panel is, so far as possible, composed of persons of different age and call, gender and social, racial or cultural background. Each member of the panel scores candidates individually against the list of agreed selection criteria and records that score on an evaluation sheet. When all the interviews have been concluded, the panel members compare scores with others on the panel and seek to reach consensus. No single person is permitted to veto a decision and any challenge to a panel recommendation is made by reference solely to the agreed selection criteria.
- 2.7 Paperwork relating to the applications received is retained for three years for use as a source of reference and to assist with ongoing feedback for any candidates who may re-apply, and/or in the event of a complaint
- 2.8 Completed equality and diversity monitoring forms are only seen by the Chambers Administrative Officer (Pupillage Secretary), and are used for analysis by reference, *inter alia*, to gender, race, disability and age of the number of persons applying, being short-listed and being recruited. Summary data forms part of ongoing reviews of our recruitment processes.
- 2.9 Interviewees are informed of the panel's decision promptly in accordance with the timetable .

### **3. Recruitment and selection of starter tenants**

*Reference Document: 0301 Chambers Manual: Tenancy Recruitment Procedure*

- 3.1 The same overriding principles of fair recruitment and selection that apply to candidates for pupillage apply also to tenancy.
- 3.2 Starter tenants are generally recruited from candidates undertaking 12 month or third six pupillages in Chambers. In addition to review of performance during pupillage there is an application process towards the end of pupillage which is outlined in our Tenancy Recruitment Procedure.

### **4. Recruitment of established tenants**

*Reference Document: 0301 Chambers Manual: Tenancy Recruitment Procedure*

- 4.1 Exceptionally, we may identify, or may be approached by, individuals or groups of established practitioners with particular experience or expertise in our areas of practice.
- 4.2 In those cases, it is accepted practice at the Bar to recruit without following all the procedures outlined above provided that such recruitment can be justified both in terms of Chambers' business needs and in terms of the skills of those recruited.

### **5. Recruitment and selection of employees**

*Reference Document: 0501 Chambers Manual: Employee Recruitment Procedure*

- 5.1 Wherever appropriate, the recruitment of employees will follow the Equality Code's recommendations relating to pupillage and tenancy recruitment and will include, for example, open advertisements, clear and objective selection criteria and panel interviews.
- 5.2 As an employer, we will treat all job applicants fairly and not discriminate unlawfully against them.
- 5.3 We will ensure that:
  - (i) we recruit from as wide a pool of qualified candidates as possible;
  - (ii) job descriptions and person specifications are prepared in advance, relate explicitly to the vacancy being advertised and contain no directly or indirectly discriminatory wording;
  - (iii) except in exceptional circumstances, vacancies are advertised and include a statement that we are "an equal opportunities organisation";
  - (iv) where it is proposed that a vacancy is not to be advertised, our Equal Opportunities Officers will review the proposal before it is finalised to ensure that no aspect of that recruitment process is either directly or indirectly discriminatory and, if so, justified;
  - (v) where we use agencies or headhunters, we will ensure that they are aware of our equality policy.

- 5.4 The application and interview process is conducted by tenants and/or senior employees using documented procedures and defined selection criteria based on the job description and person specification appropriate to the advertised post.
- 5.5 Completed equality and diversity monitoring forms will be analysed by reference, *inter alia*, to gender, race, disability and age of the number of persons applying, being short-listed and being recruited, and will form part of ongoing reviews of our recruitment processes. .
- 5.6 Paperwork relating to the applications received will be retained for 12 months and will be used as a source of reference in the event of a complaint or where an unsuccessful candidate requests feedback.



**Section C: Equality of Opportunity in Chambers****1. Fair Access to Work**

- 1.1 It is accepted that the onus is on Chambers rather than on any individual to ensure that there is fair access to work. In all matters relating to the distribution of work amongst pupils and tenants, the practices followed in Chambers are monitored to ensure that they are consistent with our Equality and Diversity Code, the BSB Handbook and the Bar Council's Fair Recruitment Guidelines.
- 1.2 All Clerks, and in particular those involved in the distribution and monitoring of work allocation to pupils and junior tenants, are provided with equality and diversity training.
- 1.3 Additionally, within a system in which clients are able to pick the barrister they wish to instruct, part of this training is aimed at raising awareness of, and sensitivity towards, discriminatory and stereotyped career assumptions that may be held by those instructing Chambers.
- 1.4 If briefing practices are identified which disadvantage a particular group (for example allocating sex and child abuse cases predominantly to female tenants) these should be addressed through the Clerks' Room. If the issue cannot be resolved through the Clerks' Room, it may need to be addressed by the Head of Chambers with the professional client(s) involved.
- 1.5 We are particularly aware of issues relating to the distribution of any un-allocated work coming into Chambers and the redistribution of work between junior tenants and pupils. When work is unallocated, the Clerks will offer clients a range of names after taking into account their relevant experience, their expertise and their availability. It is then for the client to decide which barrister to choose. However, the allocation of work in these circumstances will be monitored to ensure that any disparities in allocation are identified and rectified.
- 1.6 All instructions received will in any event be recorded on our electronic diary system and the Clerks' Room software will be used to best advantage so that the allocation of work across Chambers can be broken down and analysed in terms of:
  - (i) the type of work done;
  - (ii) the amount of work done;
  - (iii) fees earned;
  - (iv) the instructing solicitors.
- 1.7 The data generated by the above analyses will be reviewed periodically by the Senior Clerk and an EDO for monitoring of pupils and junior tenants
- 1.8 This information is used to monitor our internal work distribution procedures and professional clients' briefing practices and to ensure that any disparities in allocation are identified and rectified.
- 1.9 Tenants and pupils are also able to raise their own concerns about access to work through the EDOs and/or the relevant complaints procedure

**Section D: Retention and career development**

- 1 Our parental leave policies underline our sensitivity to the needs of tenants and pupils who take parental or other extended leave and support their successful return to work following such leave.
- 1 In addition, the Clerks have a collective responsibility for seeking to develop the practice of each tenant.
- 3 All tenants receive regular practice analysis reports from their Clerks, together with any relevant feedback which may assist them in the development of their practice (for example, feedback from clients and other third parties, or from the Clerks' Room)
- 4 Tenants have team Clerks and are therefore able to discuss their progress and strategy for the development of their practice.

**Section E: Parental Leave and Flexible Working Arrangements****1. Parental and other leave for Tenants**

*Reference document: 0304 Chambers Manual – Parental and Other Leave (Tenants)*

We have a written policy in place which covers:

- (i) the tenant's right to return to Chambers after a specified period of leave;
- (ii) the extent of the periods of leave offered free of Chambers' rent and expenses;
- (iii) the manner in which the rent and expenses to be waived, deducted or reimbursed in respect of a period of leave will be calculated;
- (iv) the tenant's entitlement to work part-time or flexibly or to take a career break for childcare or other reasons;
- (v) the procedure for dealing with grievances under the policy;
- (vi) Chambers' commitment regularly to review the effectiveness of the policy.

**2. Parental and other leave for Employees**

*Reference document 0504 Chambers Manual – Parental and Other Leave (Employees)*

We have in place a written policy which covers:

- (i) the employee's statutory rights to maternity, adoption or paternity leave and pay;
- (ii) the process and timetable;
- (iii) the employee's entitlement to work part-time or flexibly;
- (iv) the procedure for dealing with grievances under the policy;
- (v) Chambers' commitment regularly to review the effectiveness of the policy.

**Section G: Training and Awareness****1. Equal Opportunities**

- 1.1 This Equality and Diversity Code highlights a number of areas in which equal opportunities training may be appropriate.
- 1.2 The Equal Opportunities Officers are responsible for promoting good practice and compliance with our Equality Code by means of training, advice and support
- 1.3 A number of members and staff have received Bar Council Training in Equality and Diversity matters. All members involved in recruitment receive in-house training based on study of the Fair Recruitment Guide. General training in E&D will be given to pupils and staff.
- 1.4 Additional guidance is provided to anyone involved in our recruitment processes at the time a recruitment exercise is taking place by means of guidance notes and/or induction sessions.

**Section H Handling Complaints of Discrimination and Harassment**

We have written policies on complaints and grievance covering tenants, pupils and employees. The policies cover:

- (i) timescales;
- (ii) remedial action;
- (iii) informal and formal procedures;
- (iv) disability.

**Section I: Monitoring**

- 1.1 The Equality & Diversity policies and procedures within our Chambers Manual are reviewed regularly by our EDOs with a view to monitoring their effectiveness and compliance with statutory expectations. The review includes updating of procedures and the introduction of new policy documents as required. In addition, ongoing reviews take place during the year, particularly during or after recruitment processes such as pupillage, when the EDOs can gauge the effectiveness of the policies as they are being used