



## **Guidelines on the Equality and Diversity Provisions of the Code of Conduct**

# Contents

Introduction

Section 1 – Basic principles

Section 2 – Fundamental equality principle

Section 3 – Equality policy and action plan

Section 4 – Equality and diversity officer

Section 5 – Recruitment in chambers

Section 6 – Equality monitoring

Section 7 – Fair access to work

Section 8 – Harassment

Section 9 – Parental leave

Section 10 – Flexible and part-time working and career breaks

Section 11 – Providing services to disabled people

Section 12 – Model policies

Section 13 – Directory

# Introduction

## **About the Guidelines on the Equality and Diversity Provisions of the Code of Conduct**

1. These Guidelines are designed to be an essential tool for the administration of chambers, to enable chambers to meet their legal and regulatory duties, and to follow best practice in equality and diversity.
2. This document is structured so that each section includes links to other sections of the code, or to external websites, or to documents available on other parts of the Bar Council and BSB websites.

## **Key reasons for chambers to adopt equality and diversity principles**

3. There are three key reasons underpinning the adoption of equality and diversity principles in chambers: fairness, compliance, and commercial advantage.

### **Fairness**

4. It is fundamental to a democratic society governed by the rule of law that there should be access to justice. The Bar has a special position in the legal system of England and Wales, and confidence in the legal system will be enhanced if the arrangements made for access to the Bar's services, and for access to practice at the Bar for aspiring barristers are seen to be fair and non-discriminatory, and to be open to all, regardless of social, economic or educational background or circumstances. This will lead, in time, to a more diverse Bar, which better reflects the diversity of society in England and Wales.

### **Compliance**

5. Discrimination on grounds of race, sex, disability, pregnancy and maternity, sexual orientation, marital or civil partnership, gender re-assignment, religion or belief, or age, is unlawful and also constitutes professional misconduct. These Guidelines provide an evidential standard against which allegations of discrimination may be judged.

### **Commercial advantage**

6. If the Bar is to thrive, it needs to select the very best aspiring barristers, which means selecting from the widest possible pool. Discrimination in the provision of services by the Bar also reduces demand for those services.
7. In 2007, the Crown Prosecution Service published an 'Equality and Diversity Expectations Statement for the Bar', and in 2008 the Attorney General's 'Equality and Diversity Expectations Statement for Civil and Criminal Panel Counsel and their chambers' was published. Chambers are now required to demonstrate a real commitment to equality and diversity in order for their members to undertake Crown Prosecution Service and Treasury Panel work, and it is likely that other similar initiatives will be launched by the public and private sectors.

### **The structure of the Guidelines**

8. These Guidelines consist of 13 sections, as follows:

#### **Section 1 – Basic Principles**

9. This section explains the key legal obligations on chambers and individual barristers. It also includes guidance on how to meet these requirements in chambers.
10. The legal obligations are those flowing from the current legal framework.

## **Section 2 – Fundamental Equality Principle**

11. This section sets out the core non-discrimination equality principle of the Code which relates to the employed and self-employed Bar.

## **Sections 3 to 11 – Key Topics**

12. Sections 3 to 11 relate to key topics to which chambers need to pay particular attention. They provide more detail on legal and regulatory requirements and how equality issues should be approached in practice in a chambers setting.
13. For each topic, the Guidelines set out the relevant legal and regulatory requirements. This is followed by guidance on best practice. The guidance includes further explanation about the legal and regulatory requirements, but is not part of the legal or regulatory framework. You are, however, strongly encouraged to follow it: doing so should help you to ensure that you meet your legal and regulatory duties.
14. The key topics are:
  - equality statement and implementation plan
  - equality and diversity officer
  - recruitment in chambers
  - equality monitoring
  - fair access to work
  - harassment
  - parental leave
  - flexible and part-time working and career breaks
  - providing services to disabled people

## **Section 12 – Model Policies**

15. This section contains model harassment, parental leave and reasonable adjustment policies chambers may wish to use in meeting their obligations under the Code of Conduct. There is no requirement that these model policies are used and each may be adapted to the individual requirements of chambers.

## **Section 13 – Directory**

16. Section 13 is a directory of organisations and information resources that can provide chambers with further information and support on equality and diversity.

## **Examples**

17. Examples of good practice and to illustrate particular points, are given throughout the text and are clearly identified within boxes. These are intended to be illustrations of the application of the general principles to specific factual situations, and should not themselves be regarded as setting out rules or general principles.

# Section 1 – Basic Principles

## Introduction

1. This section sets out the basic legal requirements under equality legislation. The equality legislation referred to is the Equality Act 2010.

## Legal requirements

### Protected grounds

2. The law<sup>1</sup> prohibits discrimination on the following grounds (referred to in the legislation as ‘the protected characteristics’):
  - race (including colour, nationality and ethnic or national origins)
  - sex
  - pregnancy and maternity
  - disability<sup>2</sup>
  - sexual orientation
  - marriage and civil partnership
  - religion or belief
  - age
  - gender reassignment
3. The main types of prohibited conduct are:
  - direct discrimination (including combined discrimination)
  - discrimination arising from disability
  - indirect discrimination
  - failure to make reasonable adjustments
  - harassment
  - victimisation

### Areas in which discrimination is prohibited

4. Discrimination is prohibited in two main areas:
  - employment
  - service delivery (characteristics of age and marriage/civil partnership are excluded)

### Provisions specific to the Bar

5. There are specific provisions in equality legislation<sup>3</sup> covering barristers and clerks, in relation to:
  - the arrangements A makes for deciding to whom to offer a pupillage or tenancy
  - the terms on which A offers B a pupillage or tenancy
  - the terms on which B is a pupil or tenant
  - the way in which a pupil or a tenant is afforded access to opportunities for training or gaining experience or for receiving any other benefit, facility or service
  - termination of pupillage or tenancy
  - harassment of pupils or tenants
  - victimisation of pupils or tenants
  - discrimination against barristers including victimisation and harassment

### Further information on the legal requirements

6. This section explains the protected grounds, the main types of prohibited discrimination and the main provisions relating to employment and service delivery.

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<sup>1</sup> The relevant legislation is the Equality Act 2010 ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100015\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1)).

<sup>2</sup> S.6 (1) (a) & (b) Equality Act 2010: *a person has a disability if s/he has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities.*

<sup>3</sup> S.47(1) Equality Act 2010 ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100015\\_en\\_6#pt5-ch1-pb4-l1g47](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_6#pt5-ch1-pb4-l1g47))

7. The section also explains slight variations in the types and area of prohibited discrimination for different protected grounds.

### **Protected characteristics**

8. **Race:** includes nationality, colour and ethnic or national origins.
9. **Sex:** protects both men and women from discrimination on grounds of sex.
10. **Marriage and civil partnership:** covers anyone who is married or who is a civil partner.
11. **Pregnancy and maternity:** this covers anyone who is pregnant or taking a period of maternity leave to look after a child.
12. **Disability:** a person has a disability if s/he has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities.
- Disability includes not only physical disability but also mental impairments such as bipolar disorder.
  - It covers severe disfigurement<sup>4</sup>, progressive conditions<sup>5</sup> and recurring impairments<sup>6</sup>. Specific rules are made in respect of conditions such as cancer, HIV and multiple sclerosis which are deemed impairments for the purposes of the Act<sup>7</sup>.
  - There is also a positive duty to make 'reasonable adjustments' to prevent a provision, criterion or practice, or physical feature of premises, placing the disabled person at a substantial disadvantage<sup>8</sup>. Reasonable adjustments are dealt with in detail in Section 11.
13. **Religion or belief:** includes any religious or 'philosophical belief' such as humanism or pacifism, and encompasses discrimination based on the lack of religion or belief<sup>9</sup>.
14. Sexual orientation: covers sexual orientation towards:
- persons of the same sex
  - persons of the opposite sex or
  - persons of the same sex and of the opposite sex<sup>10</sup>.

Sexual orientation does not cover gender reassignment which is a separately protected characteristic see below.

15. **Gender Re-assignment:** covers anyone who is undergoing, proposing to undergo or has undergone a process (or part of a process) of reassigning their sex.
16. **Age:** covers particular ages and also age ranges.<sup>11</sup> It does not cover under 18's in service delivery. However, the Code of Conduct prohibits all discrimination on all grounds, so although certain types of age discrimination against under 18s in service delivery are not currently unlawful, generally age discrimination in service delivery is prohibited by the Code of Conduct.

### **Types of discrimination – main categories**

17. The main categories of unlawful discrimination are:

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<sup>4</sup> S.3 Sch.1 Pt 1. Equality Act 2010

<sup>5</sup> S.8 Sch.1 Pt 1 Equality Act 2010

<sup>6</sup> S.2(2) Sch.1 Pt 1 Equality Act 2010

<sup>7</sup> S. 6 (1) Schedule 1 Part 1 Equality Act 2010

<sup>8</sup> S. 20 Equality Act 2010

<sup>9</sup> S.10 Equality Act 2010

<sup>10</sup> S.12 Equality Act 2010

<sup>11</sup> S.5 Equality Act 2010

### **Direct discrimination**

18. A person directly discriminates against another if because of a protected characteristic s/he treats that person less favourably than s/he treats or would treat others.<sup>12</sup>
19. With the exception of certain types of age discrimination, direct discrimination cannot be justified.
20. It is unlawful to discriminate based on false perception. For example, a person can be unlawfully discriminated against if the discrimination is based on the incorrect assumption that he is gay.

### **Discrimination arising from disability**

21. A person discriminates against a disabled person if s/he treats that person unfavourably because of something arising in consequence of that person's disability and it cannot be shown that such treatment is a proportionate means of achieving a legitimate aim.<sup>13</sup>

### **Indirect discrimination**

22. Indirect discrimination occurs where an apparently neutral provision, criterion or practice has, or would have, a disadvantageous impact upon a particular group compared with others. The provision, criterion or practice can be justified if it is a proportionate means of achieving a legitimate aim. For example, it could be indirect discrimination if all chambers' social events took place in the evening which could affect pupils and tenants with primary childcare commitments.

### **Duty to make adjustments**

23. Where a provision, criterion, physical feature or practice puts a disabled person at a substantial disadvantage in comparison with non-disabled people, the law places a duty on individual barristers to take such steps as are reasonable to avoid the disadvantage.<sup>14</sup>
24. This duty also covers the requirement to provide auxiliary aids for disabled people where reasonable.

### **Harassment**

25. Harassment is any form of unwanted conduct in relation to a relevant protected characteristic which has the effect or purpose of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment.<sup>15</sup>
26. A single incident may constitute harassment if it is sufficiently serious.
27. The motive or intention of the perpetrator may be (but is not invariably) relevant. Harassment is unlawful under equality legislation and can also constitute a criminal offence.

### **Victimisation**

28. A person victimises another person if s/he subjects that person to a detriment because s/he believes that person has done or is about to do a protected act such as:
  - giving evidence in proceedings relating to an act or acts of discrimination
  - bringing proceedings relating to an act or acts of discrimination
  - making an allegation of discrimination
  - doing any other thing for the purposes of equality legislation or in connection with it

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<sup>12</sup> S.13 Equality Act 2010

<sup>13</sup> S.15 Equality Act 2010

<sup>14</sup> S.20 Equality Act 2010

<sup>15</sup> S.26 Equality Act 2010

## **Other relevant concepts**

### **Positive action**

29. Where a person reasonably believes that persons with a shared protected characteristic suffer a disadvantage, have particular needs or are disproportionately under-represented, that person may take any step to encourage or enable that group to overcome or minimise the disadvantage<sup>16</sup>.
30. Positive action may be taken to improve under-representation of particular groups in pupillage and tenancy as well as any employed position in chambers.
31. Such action may include providing encouragement to disadvantaged groups to apply for a particular type of work, and/or training to help fit them for that work.
32. Positive action consists of providing those from groups under-represented in chambers with additional training and encouragement to apply for positions.

**Example** – Yellowbrick chambers conducts a diversity monitoring exercise during which it is discovered that Asian barristers in chambers are underrepresented in comparison to numbers of Asian barristers at the self-employed Bar. Yellowbrick decides to take positive action to address this issue by advertising tenancy vacancies through the diversity networks as well as in Counsel magazine. This is known as “targeted advertising”.

33. The Attorney General<sup>17</sup> and CPS<sup>18</sup> encourage positive action in their Equality and Diversity Expectation Statements.

### **Discrimination by people with the same protected characteristic**

34. Individuals with the same protected characteristic can discriminate unlawfully against each other: a woman can unlawfully discriminate against another woman, or a barrister from one ethnic group can unlawfully discriminate against another member of that group.

### **Unintentional discrimination**

35. It is not a defence to claims for discrimination, including harassment and victimisation, that there was no intention to discriminate. Any less favourable treatment (commonly referred to as ‘detriment’) because of a protected characteristic and in a protected area (e.g. employment or provision of services) is likely to amount to unlawful discrimination.
36. Both direct and indirect discrimination can be either intentional or unintentional.

### **Service provision**

37. In relation to service provision, it is unlawful to discriminate against someone by:
  - refusing or deliberately omitting to provide him or her with the service
  - refusing or deliberately omitting to provide him or her with services of the same or similar quality or standard and/or
  - refusing or deliberately omitting to provide him or her with services in the same manner and on the same terms as would otherwise be provided.

**Example** – A barrister agrees to take on a case for a person with impaired hearing but only at an inflated hourly rate and brief fee ‘because of the extra hassle’ that such a case would involve, without any genuine consideration of whether there was real justification for charging higher fees. This is, on the face of it, an unlawful refusal or deliberate omission by the barrister to provide this person with services in the same manner and on the same terms as would otherwise be provided for a person without that impairment.

<sup>16</sup> S.158 Equality Act 2010

<sup>17</sup> [www.tsol.gov.uk/attorney\\_generals\\_panel\\_of\\_counsel.htm](http://www.tsol.gov.uk/attorney_generals_panel_of_counsel.htm)

<sup>18</sup> [www.cps.gov.uk](http://www.cps.gov.uk)

38. The duty not to discriminate applies to all aspects of the services provided by individual barristers, including but not confined to, core elements of practice, such as accepting instructions, advising in writing or in conference, and providing representation at hearings. The duty also applies in relation to other services provided. For example, where a chambers hires out its conference rooms, it would, on the face of it, be unlawful for the chambers to refuse this service to a religious organisation on the grounds that members of the organisation had views that senior members of chambers considered unpalatable.
39. The rules relating to provision of services apply in exactly the same way to pro bono (unpaid) work as to that for which payment is received.
40. There is an additional duty in relation to disability, to make reasonable adjustments to enable disabled people to make use of a service. There is also a regulatory requirement for chambers to have a reasonable adjustments policy aimed at supporting disabled barristers, staff and visitors to chambers. These matters are considered further in Section 11 about 'Providing Services to Disabled People'.
41. Most of the protected grounds contain limited exceptions from the general prohibition of discrimination in relation to the provision of services. Those exceptions will rarely if ever be applicable to the provision of services by a chambers or barrister, although the ability to provide justification for certain elements of discrimination in relation to disability may be relevant and is considered in Section 11 'Providing Services to Disabled People'.

## Section 2 – Fundamental Principle – Equality and Diversity

### Legal Requirements

1. The legal equality requirements for barristers are covered in section 1 above.

### Regulatory Requirements – Fundamental principle not to discriminate

1. This requirement applies to all barristers whether employed or self employed.
2. Paragraph 305.1:  
*“A barrister must not, in his professional practice, discriminate unlawfully against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership, pregnancy and maternity, disability, age or religion or belief”.*
3. The fundamental equality principle is drafted to accord with the provisions of the Equality Act 2010 which apply to barristers (s.47) referred to earlier in these guidelines.
4. The requirement not to discriminate applies to a barrister in all aspects of his or her professional life. The requirement not to discriminate improperly applies to a barrister’s relationship with “any other person” in the course of his/her professional dealings. Therefore the requirement may be interpreted as covering a barrister’s relationship with:
  - Clerks and other chambers’ staff
  - Clients
  - Court staff
  - Instructing solicitors and their staff
  - Judges
  - Other barristers
  - Pupils(The above list is for the purposes of guidance only and is not exhaustive).

## Section 3 – Equality Policy and Action Plan

### Legal Requirements

1. There is no legal requirement for chambers to have an equality policy or action/implementation plan.

### Regulatory Requirements

2. Paragraph 408 of the Code of Conduct requires that a self employed barrister must take reasonable steps to ensure that in relation to their chambers:
  - a) there is in force a written statement of policy on equality and diversity; and
  - b) there is in force a written plan for implementing the policy.

### Guidance

#### “Reasonable Steps”

3. The regulatory requirements place a personal obligation on all barristers to take reasonable steps to ensure that an appropriate policy and plans are in place. What steps are reasonable will depend, among other things, on the barrister’s position in chambers and therefore his or her ability to influence decision making.
4. It is likely to be reasonable for the BSB to expect that the Head of Chambers has personally ensured the policy and action plan required by these regulations are in place. It is also likely to be reasonable to expect that the Head of Chambers checks, at appropriate intervals, that the policy is effective and that the plan is progressing and to take appropriate steps if they are not.
5. If chambers is run by a management committee, then the responsibilities of the chair of that committee are likely to be similar to those of the Head of Chambers as described above. Other members of the committee are also likely to be expected to be pro-active in putting appropriate systems in place and in ensuring they are working properly.
6. If a barrister has been given responsibility in chambers for pupillage, then the reasonable steps required in relation to ensuring that pupils are treated fairly will be more onerous than would be expected of other people in chambers. Similarly, if a barrister is chambers’ Equality and Diversity Officer, or sits on a selection panel, or has any other specific role in chambers, then the reasonable steps required in relation to those matters will be more onerous than would be expected of others in chambers without such responsibilities.
7. If a barrister is a pupil supervisor, it is likely that s/he will be expected to take steps to ensure that their pupils are treated fairly in accordance with the policy and plan.
8. If a member of chambers is very junior, with no formal role in the management of chambers, then the reasonable steps s/he is required to take will be less onerous than for more senior members of chambers or for those who have undertaken specific responsibilities to see that chambers is fairly administered. Even so, if there are mechanisms available to such individuals, to draw attention to ways in which other members of chambers are being treated unfairly, it might well be reasonable to expect that even junior members do that.
9. Similarly, if there are meetings of chambers to agree policies on important issues, such as parental leave or flexible working, even a junior barrister would be expected to take reasonable steps to ensure that chambers’ policies are agreed which comply with the equality provisions of the Code, for example by raising concerns about non-compliant policies and not voting against compliant ones (unless there were alternative compliant proposals).

10. If the chambers' action plan on equality and diversity has allocated some tasks to a barrister, it would be reasonable to expect that individual to carry out those tasks or to draw attention to any problems if they are unable to do so.

### **Equality Policy**

11. The equality policy should set out chambers' commitment to promoting and advancing equality. It should be clear to readers why the policy has been drafted and the aims it intends to achieve. Chambers are encouraged to ensure that equality policies cover the following areas:
  - Recruitment and selection
  - Fair access to work and the allocation of unassigned work
  - Equality monitoring
  - Complaints and grievances.

### **Action Plan**

12. Chambers will need to consider what actions it must take to ensure that the principles of equality and diversity are embedded into the framework of its day to day work and to prevent unlawful discrimination taking place. The actions that are required to achieve these aims will naturally differ depending on each chambers' individual circumstances.
13. Equality actions should be "SMART". This means:
  - a) **Specific** – i.e. clear, as opposed to vague statements or "ideal scenario" wish lists.
  - b) **Measurable** – It should be clear how chambers will know when an action has been completed. Chambers may wish to use numbers, dates and times in order to achieve such clarity (e.g. ensure parental leave policy is included in chambers' induction pack for staff and barristers by a certain date).
  - c) **Affordable** – does chambers have sufficient resources to undertake the action?
  - d) **Realistic** – is it feasible in all the circumstances for chambers to undertake this action?
  - e) **Timely** – a clear deadline, by which each action must be completed, should be set.
14. Action plans should detail the following information:
  - The action to be taken (it is also useful to include a summary of the evidence base supporting the action to be taken)
  - The name (or job title) of the person who is to be responsible for ensuring the action is progressed/completed
  - The deadline by which the action must be completed
  - Any update on progress of the action.

## Section 4 – Equality and Diversity Officer

### Legal Requirements

1. There is no legal requirement for chambers to appoint an Equality and Diversity Officer.

### Regulatory Requirement

2. 408.1(a): A self employed barrister must take reasonable steps to ensure that chambers has at least one Equality and Diversity Officer.

### Guidance

3. The Equality and Diversity Officer should be a senior member of chambers who has been trained in equality and diversity. Advice on suitable courses can be obtained from the Bar Council's Equality and Diversity Advisor whose details may be found in the Directory in section 13.
4. The Equality and Diversity Officer should be prepared to devote sufficient time to the role, including making himself or herself available to members of staff and colleagues to give advice and discuss any problems which may arise.
5. The Equality and Diversity Officer should be responsible for ensuring that:
  - a written equality and diversity policy for chambers is adopted, implemented, then reviewed and kept up-to-date;
  - all chambers policies and procedures (whether or not documented) are reviewed regularly to ensure that they comply with the equality and diversity policy and these guidelines and that records are kept of the outcome of reviews and of action taken in response;
  - equality and diversity training is provided for all members of chambers and staff including clerks and that refresher courses are provided periodically once initial training has been given;
  - advice is offered to the Head of Chambers, the senior clerk, the chair of the pupillage committee, members of the chambers management committee and individual members of chambers on equality and diversity issues, both in response to a request and whenever the Equality and Diversity Officer considers that equality and diversity issues arise;
  - he or she is available to individual members or chambers staff to offer advice on equality issues and to provide an informal route, if requested, for the resolution of grievances; and
  - monitoring data from pupillage, member or staff recruitment exercises, chambers membership, and the allocation of unassigned work is analysed regularly and that any actions necessary to remedy or investigate unfair outcomes are developed and added to chambers' equality action plan.

## Section 5 – Recruitment in chambers

### Legal requirements

1. The legal requirements set out in Section 1 include a prohibition on discrimination in recruitment and selection on grounds of sex, race, disability, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership, religion or belief, or age.
2. Chambers are also reminded of the duty to make reasonable adjustments for disabled candidates.
3. It is unlawful to ask questions about the health or protected characteristics<sup>19</sup> of an applicant (other than diversity monitoring questions) either orally or in writing:
  - before offering that applicant a pupillage, mini-pupillage or tenancy
  - before including that applicant in a pool of applicants from whom it is intended that selection of a pupil, mini-pupil or tenant is to be made<sup>20</sup>.
4. It is also unlawful to publish or cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention to discriminate either directly or indirectly on any of the prohibited grounds.

### Regulatory Requirements

5. 408.1(b): From January 2013, the member with lead responsibility for any committee or panel responsible for the selection of members of chambers, pupils, clerks or assessed mini-pupils and at least one member of the selection panel, who may be the same person, must have received recent and appropriate training in fair recruitment and selection processes, except in unforeseen and exceptional circumstances.
6. 408.1(c): From 1<sup>st</sup> July 2014, save in exceptional circumstances, every member of all selection panels involved in the recruitment of tenants, pupils, clerks and assessed mini-pupils must be trained in fair recruitment and selection processes.
7. 408.1(d): Chambers' recruitment and selection processes must use objective and fair criteria.

### Guidance

8. The same broad principles apply to the recruitment of pupils, starter tenants, established practitioners and staff. The guidance below about aspects of the recruitment and selection process applies to all categories of vacancy. Detailed guidance on fair recruitment and selection in chambers is set out in the Bar Council's Fair Recruitment Guide for the Bar (<http://www.barcouncil.org.uk>), private study of which is sufficient to satisfy the training requirements set out above. At least one pupillage selection panel member is encouraged to attend a formal course in fair recruitment and selection skills.
9. The term 'recruitment' covers the whole process of filling a vacancy, from seeking applicants to making the selection decision. Selection refers to the process of choosing from among those candidates who have applied, and includes application forms, short-listing, and any mechanisms used to help the decision making process, such as selection tests, references and interviews.
10. Training is defined in the Code as "any course of study covering all the following areas:
  - Fair and effective selection and unconscious bias
  - Selection criteria and assessment methods

<sup>19</sup> For example questions as to the age of an applicant or enquiries as to whether or not they are planning a family.

<sup>20</sup> S.60(1) Equality Act 2010

- Attraction and advertising
  - Application processes
  - Shortlisting skills
  - Interviewing skills
  - Assessment and making a selection decision
  - Monitoring and evaluation”.
11. The Bar Council’s Fair Recruitment Guide covers these areas and therefore private study of this document will be considered adequate to satisfy rules 408.1(b) and (c) although course attendance is encouraged for at least one panel member. The member with lead responsibility for any committee or panel responsible for the selection of members of chambers, pupils, clerks or assessed mini-pupils and at least one member of the selection panel, who may be the same person, should cover in training all the topics listed in paragraph 3 above. Other members should cover as a minimum training topics listed above on: fair and effective selection and unconscious bias; shortlisting skills; interviewing skills; and assessment and making a selection decision. Training may also be undertaken online or by completion of CPD hours covering the above areas. Information on suitable courses may be obtained from the Bar Council’s Equality Adviser, whose details may be found in the Directory in section 13.

### **Guidance relating to all recruitment and selection in chambers**

#### **Selection criteria**

12. Recruitment and selection should be underpinned from the outset by objective selection criteria based on key requirements of the job or work in question.
13. Objective selection criteria should:
- enable chambers to focus on the qualities which they require from the successful candidate;
  - promote a consistent and objective approach to candidates by selectors;
  - reduce the opportunity for decisions to be influenced by stereotyping or unwitting prejudice;
  - be designed so that higher weightings are given to criteria to which greater importance is attached and;
  - increase the chances of chambers selecting the best candidate.
14. Chambers should avoid criteria that are subjective, such as personality-based attributes, or behavioural attributes that cannot fairly be tested at some stage of the selection process.
15. Care should be taken to ensure that requirements do not create a risk of indirect discrimination by potentially putting some groups at an unjustifiable disadvantage relative to others. For example a requirement for a driving licence could disadvantage some disabled candidates. If such criteria do put certain groups at a disadvantage, disadvantage the individual, and cannot be shown to be a proportionate means of achieving a legitimate aim, they will constitute unlawful indirect discrimination.

#### **The selectors**

16. All recruitment should be carried out by more than one person, except in sole practices. The panel of people responsible for a particular recruitment exercise should be determined at the start of the recruitment process, and should where possible have responsibility for running it from start to finish.

17. It is clearly not possible to establish selection panels that include representatives of all groups. But if possible the panel should not be completely homogeneous e.g. three white men of similar age. A diverse interview panel may help to reassure an applicant that he or she will be treated fairly, even if the panel does not include representatives of the group with which the candidate may identify most strongly.
18. Panels should not include any relative or close friend of any candidate.
19. It is good practice for the Chair of any committee or panel responsible for the selection of tenants, pupils, and mini-pupils to have received recent and appropriate training in fair recruitment and selection methods. Where possible it is recommended that all of those who may be involved in conducting interviews or selection exercises (including as substitutes) receive such training. This has the benefit of increasing the likelihood of chambers selecting the best available candidates. The training should focus on good practice in recruitment and selection and alert selectors to the ways in which fair selection can be undermined, for example, by stereotyping, first impressions, or a preference to those that are similar to themselves.

#### **Advertising/seeking applicants**

20. It is good practice generally to ensure that vacancies are made known to a wide range of potential applicants, so the choice of advertising media should take account of the extent to which advertisements are likely to reach those from different groups, such as ethnic minorities, disabled people and people from different age groups.
21. Care should be taken to ensure that advertisements could not be seen as indicating an intention to discriminate on any of the protected grounds.
22. It is good practice to include in advertisements:
  - encouragement of applications from groups which are under-represented in chambers;
  - a statement of compliance with these Guidelines;
  - a statement indicating preparedness to make reasonable adjustments for disabled candidates.

#### **Application forms**

23. An application form or competency based questionnaire is best practice and is generally preferable to a curriculum vitae (CV). It enables the assessment of candidates to be made on a clearly defined comparative basis by reference to specific qualities which are relevant to chambers' selection criteria. It also makes it less likely that selectors will see information that is best kept separate, such as that relating to age or family commitments.
24. Chambers should be aware of the possible need, and their duty, to make reasonable adjustments for disabled applicants at this stage, for example by providing forms in a format that is accessible to individual disabled applicants.

#### **Short-listing**

25. Short-listing should be carried out by more than one person, and by reference to the selection criteria determined at the outset.
26. Suitable arrangements should be made for short listing decisions to be moderated if shortlisters cannot agree.
27. The detachable section of the application form with monitoring and other equality-relevant information should be removed by someone not involved in the selection process before short-listing begins.

### **Interviews**

28. Chambers should ensure that any reasonable adjustment required for a disabled candidate has been made so that disabled candidates are not disadvantaged at interview.
29. Interviews should be planned in advance and structured so that each candidate may demonstrate his or her abilities and qualities by reference to each selection criterion.
30. The preamble to the interview should introduce the panel, and the areas about which they will be asking questions, and explain what the sequence of the interview will be.
31. It is not essential to ask each candidate identical questions, but a planned sequence of topics is recommended. Questions based on the protected characteristics of an individual (e.g. race/age/gender) should not be asked as this could constitute direct discrimination.
32. Irrelevant questions, such as personal questions in relation to family and personal background should be avoided. So should questions about marital or familial intentions. Where a disabled candidate may need reasonable adjustments to enable them to practise from a particular chambers, these should be discussed once it has been decided to make an offer to the candidate. The possible need for such adjustments should play no part in the decision.
33. Selectors should be aware that their facial expressions and body language may have the effect of encouraging or discouraging candidates, and the impact of their behaviour may be greater for some groups than others, for example those with past experience of discrimination may be more sensitive to 'negative' body language.
34. Selectors should score candidates individually against each criterion on an agreed scale and should then compare their scores with others on the panel so as to seek to reach a consensus, which should be recorded by the chair of the panel, without the original individual scores being changed. The panel should, where possible, reach a consensus on the overall score for the candidate, taking into account any weightings assigned to particular criteria because of their relative importance, as determined at the start of the recruitment procedure.

### **Selection exercises**

35. It is strongly recommended that standard exercises either in written form or by way of oral presentation are used alongside interviews to assess candidates. Where such exercises accurately reflect the skills needed by barristers they can be excellent predictors of future performance. In relation to pupils and starter tenants, such exercises should be designed in such a way that any area of law covered is one with which all candidates are likely to be familiar. Alternatively, a topic may be chosen which requires no prior specialist legal knowledge but is designed to test analytical or advocacy skills.
36. Chambers should be aware of the need to make reasonable adjustments to selection exercises for disabled candidates on request.

### **References**

37. Where references are sought, a standard form should be used, and referees should be directed as to the selection criteria, and the type of information sought from them. References should be requested and provided in writing.

### **Selection decisions**

38. Selection decisions should be based on the final agreed scores recorded by the selection panel, supplemented by any information subsequently obtained from referees. Where final decisions as to recruitment are made by chambers or designated members of chambers rather than the selection committee, no single member of chambers should be permitted to veto a decision and any challenge to a recommendation of the selection committee should be by reference to the selection criteria and on grounds which are justifiable and substantiated.

### **Record keeping**

39. Candidates who have been unsuccessful may want feedback on why they were not selected. If good records are kept, reasons why a candidate was not successful are generally easily explained in the event of a request or even legal challenge.
40. Records relating to advertising of vacancies and applications should be retained for a year. Successful applicants' documents should be transferred to chambers files in any event.

### **Guidance relevant to particular categories**

#### **Pupillage**

41. Chambers should have a pupillage policy which includes the pupillage selection procedure. This should be made available to candidates for pupillage and should be reviewed regularly.

#### **Mini-pupillages**

42. In chambers where successful completion of a mini-pupillage positively influences an individual's subsequent selection for pupillage, such mini-pupillages should be advertised and a formal selection process used.
43. Chambers should be aware of the need to make reasonable adjustments in mini-pupillage for a disabled mini-pupil.
44. Many students rely on income earned during university holidays, and a formal requirement that all applicants for pupillage undertake an assessed mini-pupillage may make it difficult for those from economically disadvantaged groups to apply for pupillage. This is particularly so if many chambers undertaking a particular type of work impose a similar requirement, as a student may be required to undertake an assessed mini-pupillage, usually of a week, at each chambers.
45. Chambers are encouraged to offer more mini-pupillages, including those for shorter periods (2 to 3 days, rather than the more usual full week), and to consider offering funding for travel and accommodation expenses of those undertaking mini-pupillages.<sup>21</sup> In addition, chambers are encouraged to publicise mini-pupillages to those from socially and economically disadvantaged groups who may not be aware that they are available.<sup>22</sup> Chambers may also wish to consider reserving a number of places for students who have not previously undertaken a mini-pupillage.
46. Application procedures should be transparent: chambers should state whether applications are by means of a CV or an application form, if mini-pupillages are offered or applications considered at particular times of year, and whether mini-pupillages are assessed.

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<sup>21</sup> The Final Report of the Entry to the Bar Working Party, published in November 2007 (chaired by Lord Neuberger), recommended that: 'Chambers should be encouraged to offer more mini-pupillages, including those for shorter periods (2-3 days, rather than the more usual full week). Consideration should be given to obtaining funding for travel and accommodation expenses of those attending mini-pupillages.' (Recommendation 12). See also paragraph 115 of the Report.

<sup>22</sup> See the Final Report of the Entry to the Bar Working Party, published in November 2007 (chaired by Lord Neuberger), paragraph 116.

47. Where mini-pupillages are assessed, the same or equivalent assessment exercise or exercises should be provided to all candidates, and the exercises should be assessed by at least two assessors applying the same criteria.

#### **Starter tenants**

48. Every chambers which recruits starter tenants should have a policy in relation to their recruitment. The policy should be made available to members of chambers and to pupils when they begin their pupillage.
49. Chambers should identify, preferably at a specified time each year, how many starter tenants they wish to recruit. Chambers should, with the assistance of the senior clerk, practice director or similar, so far as possible determine the quantity and the nature of work available, or potentially available, for starter tenants.
50. Starter tenancies should be advertised where chambers do not recruit exclusively from among their own pupils.

#### **Established practitioners**

51. Vacancies for established practitioners should normally be advertised. However, chambers may identify, or be approached by, individuals or groups of established practitioners with particular experience or expertise in chambers' field(s) of practice. Chambers should be aware that targeted recruitment may give rise to allegations of discrimination. However, it may be legitimate to recruit without advertisement provided that such recruitment can be justified both in terms of the chambers' real business needs and in terms of the skills of those recruited.

#### **Employees**

52. Chambers may need to take advice about contracts and policies applying to clerks and other staff. Fuller guidance can be found on the websites of ACAS and Business Link (<http://www.acas.org.uk> and [www.businesslink.gov.uk](http://www.businesslink.gov.uk) ).

## Section 6 – Equality monitoring

### Legal requirements

1. There is no legal obligation on organisations other than certain public sector bodies to gather and analyse data for the purposes of equality monitoring.

### Regulatory requirements

2. 408.1 (e) Chambers must regularly review:
  - (a) the number and percentages of barristers, pupils and assessed mini-pupils from different groups;
  - (b) applications for assessed mini-pupillage, pupillage, staff and membership of chambers;
  - (c) the allocation of unassigned work.
3. This review must include, but is not limited to:
  - (a) collecting and analysing data broken down by race, disability and gender;
  - (b) investigating the reasons for any disparities in that data; and
  - (c) taking appropriate remedial action.
4. The regulations [408.2(l) – (t)]:
  - Chambers must have a Diversity Data Officer (DDO).
  - Chambers must provide the name and contact details of the DDO to the Bar Standards Board (BSB) and must notify the BSB of any change to the identity of the DDO, as soon as reasonably practicable.
  - Chambers' DDO must invite the Members of the Workforce to provide Diversity Data in respect of themselves to the DDO using the model questionnaire contained in the BSB guidance entitled "Guidance on the BSB's Diversity Data Collection Rules".
  - Chambers' DDO must ensure that such data is anonymised and that an accurate and updated summary of it is published on chambers' website in the first instance by 31st December 2012 and thereafter every three years. If the chambers does not have a website, the DDO must make such data available to the public on request.
  - Chambers' DDO must:
    - (i) ensure that chambers has in place a written policy statement on the collection, publication, retention and destruction of Diversity Data which shall include an explanation that the provision of Diversity Data is voluntary;
    - (ii) notify the Members of the Workforce of the contents of the written policy statement; and
    - (ii) obtain explicit consent from individual Members of the Workforce to the provision and processing of their Diversity Data in accordance with the written policy statement and these rules, in advance of collecting their Diversity Data.
  - Chambers' DDO must have effective systems and controls in place to ensure that any Diversity Data provided to the DDO is collected and held securely and in accordance with the Data Protection Act 1998.
  - Chambers' DDO must take all reasonable steps to ensure that the Diversity Data is not shared with any third parties except as permitted by the rules.

## **Guidance**

### **The need for monitoring**

5. Equal opportunities policies, by themselves, will not bring about equality. Chambers should have a system for checking whether their policies are being carried out and whether they are working. Without equality monitoring data, it is impossible to establish the nature or extent of any inequality, identify those areas where action is most needed, and whether measures aimed at reducing inequality are succeeding.
6. The regulations [408.2(e)(i) – (iii)] provide that chambers must gather data on race, gender and disability in relation to the following areas:
  - (a) applications for assessed mini-pupillage, pupillage, staff and membership of chambers;
  - (b) the allocation of unassigned work.
7. Chambers are encouraged to consider monitoring these areas across the other protected characteristics where they believe the results would be useful in supporting their work on equality and diversity.
8. The regulations [408.2(l) – (t)] further provide that in relation to “headcount” (numbers and percentages of those making up chambers’ workforce) data must be collected across the following protected characteristics: race, gender, disability, sexual orientation, religion/belief, age, socio-economic background and caring responsibilities. Headcount data on race, gender, disability, age, socio-economic background and caring responsibilities must be published.
9. This wider headcount monitoring and publication of it, is dealt with in rules 408.2 (l) – (t) and is the subject of specific guidance which the BSB has published separately entitled “Guidance on the BSB’s Diversity Data Collection Rules”. The guidance may be downloaded from the BSB website.
10. Headcount monitoring should be undertaken using the questionnaire developed by the Legal Services Board for this purpose. The LSB questionnaire is contained in the BSB’s Guidance on Diversity Data Collection referenced in the above paragraph. The questions relating to race, gender and disability may be extracted to develop a separate questionnaire for the purposes of monitoring applications and allocation of work, unless chambers decides to monitor more protected characteristics in this areas than the rules currently require.
11. Regulations [408.2(l) – (t)] also require the development of a policy or policies dealing with the collection, publication, retention and destruction of diversity data. Sample policies including a model diversity data policy, consent form and model questionnaire are included in the BSB’s Guidance on Diversity Data Collection referenced in paragraph 14 above.

### **Anonymous monitoring**

12. For the purposes of monitoring recruitment and selection and work allocation, it is important that monitoring data should not be anonymous; it should be possible to link the equality data relating to race and sex to the person to whom it relates. Without this, it is effectively impossible to monitor the recruitment and selection process at each stage or the allocation of work, without repeatedly asking individuals for equalities data. However the identity of individuals can be concealed in the analyses of data by identifying individuals only by a number that can be independently linked back both to their monitoring data and their name.

13. However sometimes anonymous monitoring may produce a better response rate. Anonymous surveys may for example enable chambers to assess the number of lesbian, gay or bisexual barristers and staff, and to correlate this with other information sought at the same time, for example about work satisfaction, or experience of harassment. Set against this advantage is the potential to exacerbate perceptions that lesbian gay or bisexual members of chambers should keep their sexual orientation secret.
14. In the case of disability it may be helpful to carry out anonymous surveys as well as non-anonymous data collection. This may highlight a discrepancy between self-declared disability rates for anonymous and non-anonymous data, and the need for further efforts to reassure people about confidentiality. Any substantial discrepancies may indicate a need to interpret the non-anonymous monitoring data with caution.

#### **Collecting monitoring data**

15. When requesting equality information, an explanation for its collection should be given. This should state why the information is being requested and for what purposes it will be used. The explanation should emphasise confidentiality and state who will have access to the information. It should also explain that answering the questions is not compulsory.
16. It should also be made clear to those completing the monitoring form that their response to the question on disability will only be used for monitoring purposes. An additional question should be included to enable disabled individuals to raise any need for reasonable adjustments related to their recruitment, employment or membership of chambers. In the case of recruitment it is good practice to ask applicants whether they require any reasonable adjustments in the recruitment process as part of the covering letter.

#### **Monitoring unassigned work**

17. Work monitoring is an active exercise to identify discrepancies in how work is being allocated within chambers so that these can be investigated.
18. Chambers should consider keeping a database of work allocated to pupils, junior tenants and those returning from parental leave. The patterns that need to be considered are earnings, quantity of work and sources of work.
19. Most, if not all, chambers will already keep data on earnings, so the first task for monitoring may be to see whether for example men at a particular call are earning significantly more than women or BME barristers.
20. Unassigned work monitoring is relatively straightforward. Chambers simply has to record whether the work came into chambers marked for a particular barrister/pupil, or whether it was allocated and if so, who it was allocated to and who was responsible for allocating the work. This exercise should pick up patterns of work allocation.
21. If a disparity is identified the next step is to consider the reasons for any disparity. For example it may be necessary to look at why a man is earning much more than a woman of the same call, or why specific types of cases are being allocated to male members of chambers. In some cases there are perfectly rational and acceptable reasons, e.g. the man has greater skill or the woman has chosen to work fewer hours.
22. It is recommended that a chambers committee, including the senior clerk and Equality and Diversity Officer, meets quarterly to review work allocation reports and decide on what further actions may be necessary.

23.

**Example** – The Equality and Diversity Officer and the senior clerk review chambers’ work allocation data. There are two starter tenants, one female and one male. The female tenant has been receiving a disproportionate number of cases involving allegations of sex discrimination. Following a conversation with the tenant concerned, the Equality and Diversity Officer and the senior clerk decide to hold a refresher equality and diversity training session for the clerking team. At the next review session, the disparity has reduced significantly.

24. If briefing practices are identified which appear to disadvantage individuals from particular groups, for example a tendency to provide female starter tenants with family work irrespective of their stated preference, these should be addressed through the clerks’ room. If the issue cannot be resolved through the clerks’ room, it will need to be addressed by the Head of Chambers.

#### **Monitoring applications**

25. Examining the application rates of different groups enables chambers to gauge whether application rates are proportionate to these groups’ representation on the Bar Professional Training Course (for pupillage) or among suitably qualified barristers (for tenancies) or the population from which selection is to be made (for chambers’ staff). Statistical diversity data on the profession may be downloaded from the BSB website [www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports](http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports).
26. Where under-representation of particular groups is identified, chambers may wish to consider using positive action to encourage applications from members of those groups. Further information on positive action is provided in Section 1.

#### **Shortlisting**

27. Chambers should check whether the representation of different groups among those shortlisted is proportionate to their representation among applicants. If there is a disparity, the reasons for different shortlisting rates should be investigated.

#### **Interview stage**

28. The success rates for different groups at the interview stage should be examined. Any differences should be investigated to ensure that there is no direct or indirect discrimination in the treatment of candidates. Training interviewers in fair recruitment should be considered if disparities are identified in analysis of interview monitoring data. Exercises used at this stage should be reviewed if the analysis suggests that they are contributing to disparities.

#### **Appointments**

29. As well as stage by stage comparisons it can be useful to look at the overall likelihood of different groups being appointed, i.e. the proportions of appointments from each group. Small disparities at each stage may combine to create a large disparity that needs to be addressed.

#### **Monitoring membership**

30. The equalities data needed for this exercise should be collected when individuals apply for or join chambers. Where this information is not available for existing members or employees, the data should be gathered by means of an internal survey. This exercise may need to be repeated from time to time to top up the data, or to allow for it to be changed or corrected, although this should not preclude the making of changes at other times at the request of the data subject.

### **Data Protection requirements**

31. All data collection, storage, analysis and publication should be carried out in full compliance with the requirements of the Data Protection Act (DPA) relating to the processing of personal information and the processing of sensitive personal information. The data gathered in equality monitoring should be considered sensitive personal data. Consequently, the data collected from monitoring should be stored in a secure manner. Access to the information should be restricted to only those members of chambers and staff with a legitimate need to know, so as to maintain confidentiality. Data should only be gathered for lawful and specified purposes. This highlights the importance of ensuring that there is a detailed statement given as part of data collection explaining how equalities data will be used.
32. Data should not be published in a way that makes it possible for an individual to be identified, without that individual's permission. It is particularly important to remember this when the number of people reported on is low.
33. Chambers should note that serious breaches of the data protection principles under the DPA which are likely to cause substantial damage or distress, and which are committed deliberately or recklessly, may result in a fine of up to £500,000.
34. Detailed specific guidance<sup>23</sup> on the DPA implications for chambers may be downloaded from the BSB website.

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<sup>23</sup> "Guidance on the BSB's Diversity Data Collection Rules"

## Section 7 – Fair Access to Work

### **Legal requirements**

1. The legal requirements set out in Section 1 (Basic Principles) prohibit discrimination in relation to employment, and employment discrimination includes discrimination in access to opportunities for promotion or training.
2. The law also prohibits the issuing of instructions to discriminate, or exerting pressure to discriminate, on any of the protected grounds.
3. The discrimination legislation also makes it unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against any person or subject any person to harassment.

### **Regulatory requirement**

4. 408.1(f) – The affairs of chambers must be conducted in a manner which is fair and equitable for all members of chambers and pupils. This includes, but is not limited to, the fair distribution of work amongst pupils and members of chambers.

### **Guidance**

5. The guidance below relates to four issues raised by the regulatory requirement: the allocation of work in chambers; dealing with discriminatory instructions or pressure to discriminate; practice development; and marketing of barristers and pupils.

### **Allocation of work**

6. The development of a successful practice is often influenced by the range and quality of instructions received by a barrister, particularly during pupillage and in the early stages of their career. Different types of work provide the opportunity for newly qualified barristers to explore areas of interest, build on their skills and ultimately develop a successful career at the Bar. It is therefore in the shared interest of both chambers and their members that work is allocated fairly and that particular attention is paid to this in the development of pupils, starter tenants and those returning from parental leave.
7. Chambers should seek to ensure, where possible, that instructions and briefs are not delivered by solicitors at such times as to preclude those with childcare and other dependent care commitments from being eligible for that work (for example, where a brief is not delivered until Friday afternoon for a trial on Monday). If a brief arrives at the last minute, consideration should be given to whether it can be forwarded electronically, for example by scanning and emailing it. Late delivery of briefs may also disadvantage disabled barristers who may require the court to make adjustments for them which cannot be made on the morning of a trial or hearing.
8. Where chambers takes pupils, it is recommended that there is a policy of actively rotating briefs to ensure that pupils in their second-six receive a fair range of different types of work. It is also recommended that reviews with pupils and starter tenants include a discussion of the types of work they have received to ensure that this is supporting their development.
9. Senior members of chambers and clerks play particularly important roles in the allocation of work since both may be asked by clients for their views as to who would be suited to a particular piece of work. It is recommended that chambers provide clerks with diversity training and brief them on the importance of fair allocation of work. Chambers should also have in place procedures for dealing effectively with complaints or concerns about allocation of work.

### **Potentially discriminatory requests/instructions from solicitors**

10. S.47 (6) Equality Act 2010 makes it unlawful for any person in instructing a barrister, to discriminate against them. This includes clients, clerks and solicitors. In addition, the Solicitors Regulation Authority handbook 2011 prohibits solicitors from discriminating unlawfully against any person in the course of their professional dealings. Such dealings will include the instruction of barristers.
11. Chambers should ensure that clerks are aware of the legal position and the requirement that work is distributed fairly.
12. Clerks may receive requests that are discriminatory, for example requests from solicitors for a barrister of a particular sex or race for a particular piece of work. Faced with such requests, clerks should explain that they are unlawful. If possible they should try to explore the reasons for the request. It may be claimed in the course of the discussion that the request has originated with the client. This is not a justification. Further discussion between the clerk and the solicitor may help to clarify the reason for the request, which may be based on stereotypical assumptions and it may be possible to meet the underlying need in a non-discriminatory way.

**Example** – A solicitor asks which male barristers are available to do a trial. The clerk asks why the solicitor is asking for a male barrister, and the solicitor says that the litigation has been very acrimonious, and that the client wants a robust cross-examiner who will not be intimidated by the opposition. The clerk says he cannot put forward counsel on the basis of their sex, but can recommend several barristers who are available and who have reputations as robust and fearless cross-examiners. The list includes both women and men.

13. On no account should clerks comply with any request or requirement to discriminate on unlawful grounds in the choice of barristers. Should the solicitor refuse to modify or withdraw the request and continue to insist on a discriminatory allocation of work, the work should be politely refused, the clerk should make a full note of the incident immediately, and the solicitor should be reported to his or her professional disciplinary body.

### **Practice development**

14. Chambers should arrange regular practice development meetings for tenants. The purpose of these meetings is to enable discussion of work allocation, work opportunity and development of individual practices. Pupil supervisors should discuss these issues with pupils and, where appropriate, the clerks and the Equality and Diversity Officer.
15. Chambers are encouraged to set up mentoring schemes where advice and guidance can be offered regarding practice development. A junior tenant may be a pupil's mentor, and a more senior tenant may act as a mentor to a more junior tenant or to any member of chambers who requests a mentor. For example a barrister returning from parental leave may nominate a more senior member of chambers as a mentor who can offer advice and support before and on his or her return to practice.

### **Marketing of barristers and pupils/Networking activities**

16. Chambers should ensure that marketing and networking activities, such as giving or attending seminars and lectures and social activities such as quiz nights and sporting activities, are organised so that all pupils and tenants can, so far as practicable, be equally involved. This extends to opportunities for pupils and junior tenants to get to know more senior members of chambers and the clerks.
17. Chambers may find formal practice groups a useful means of integrating pupils and members of chambers and ensuring that marketing and networking opportunities are publicised within chambers and allocated fairly.

## Section 8 – Harassment

### Legal requirements

1. Harassment is unlawful under the Equality Act 2010<sup>24</sup>. It is any form of unwanted conduct relating to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation which has the aim or effect of violating a person's dignity, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for that person (or, in some cases, a witness to the conduct).
2. A second form of harassment is where a person engages in unwanted conduct of a sexual nature towards another person and the conduct has one or other of the above aims or effects.
3. A third form of harassment occurs when a person engages in unwanted conduct of a sexual nature (or related to gender reassignment or sex) which has one or other of the above aims or effects and because the recipient rejected (or submitted) to that conduct treats the recipient less favourably than if they had not rejected or submitted to it.

### Regulatory requirement

4. 408.1 (g) – Chambers must have a written anti-harassment policy which must:
  - (a) state that harassment will not be tolerated or condoned and that employees, members of chambers, pupils and others temporarily in chambers such as mini-pupils have a right to complain if it occurs;
  - (b) set out how the policy will be communicated;
  - (c) set out the procedure for dealing with complaints of harassment.

### Guidance

5. Harassment is a particularly difficult issue because behaviour that one person may be able to ignore or deal with comfortably may nevertheless constitute harassment if directed at another. Further, a person can be harassed by behaviour which is not directed at him or her but at another person. A single incident may constitute harassment if it is sufficiently serious. The motive or intention of the perpetrator may be (but is not invariably) relevant. Harassment is unlawful under equality legislation and certain types of harassment may also constitute a criminal offence.

**Example** – Chambers employs a former clerk, who retired at the age of 65, to carry out various administrative tasks. When he comes into the clerks' room, the clerks call him 'granddad' and make jokes about his free travel pass. He finds it humiliating to have his age constantly referred to in this way, but he feels that he has to go along with the 'joke' and says nothing. The clerks' behaviour is likely to be unlawful and chambers, as the employer, is likely to be vicariously liable.

### Dealing with harassment

6. Those experiencing harassment may be afraid to complain. They may fear that their complaint will be trivialised or that they will be subject to ridicule or reprisals or that nothing will be done. By undertaking certain specific steps, chambers should be able to alleviate the problems of harassment in the context of work related relationships.
7. In particular, the following are recommended:
  - active promotion of chambers' anti-harassment policy by people in senior positions;
  - training for those in senior or supervisory roles on how to keep the work environment free of harassment and how to deal with it should it occur;

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<sup>24</sup> S.26 Equality Act 2010

- provision of informal means of resolving complaints of harassment in the first instance;
  - designation of an adviser to assist employees and others subjected to harassment. (This is a role which may be carried out by chambers' Equality and Diversity Officer);
  - independent, objective, sensitive and fair procedure for the internal investigation of complaints; and
  - a principle of treating violations of the anti-harassment policy as a disciplinary offence.
8. A person who is being harassed often just wants the harassment to stop and does not wish to see the harasser disciplined. In these circumstances, chambers should make an independent assessment of the situation to decide whether disciplinary action should be taken.
9. With support from the designated adviser (who may be chambers' Equality and Diversity Officer), the person who is experiencing harassment may wish to tell the harasser that the behaviour is unacceptable and it should stop immediately, this may be done indirectly through a designated adviser or another person. Advice may also be sought from the Bar Council's Equality and Diversity Advisor (for contact details, see the Directory at Section 13).

**Policy requirement**

10. A model chambers anti-harassment policy is set out at Section 12.
11. Written policies and procedures should be reviewed regularly and at least every two years.

## Section 9 – Parental leave

1. “Parental leave” refers to leave taken by the main carer of a child following birth or adoption. This could be the mother, father or adoptive parent of either sex.

### **Legal requirements**

2. Employees of chambers are covered by the legislation relating to parental leave. An explanation of this legislation can be found on the relevant part of the Business Link website at: <http://www.businesslink.gov.uk>. Self employed barristers are not covered by these provisions however chambers must avoid any direct or indirect discrimination because of sex in the arrangements and decisions made in relation to such leave.

### **Regulatory requirements**

3. 408.1(h) – Chambers must have a parental and adoption leave policy which covers:
  - (a) The right of a member of chambers to return to chambers after a specified period (which must be at least one year) of parental or adoption leave.
  - (b) The extent to which a member of chambers is or is not required to contribute to chambers’ rent and expenses during parental leave. This includes, but is not limited to, the method of calculation of any waiver, reduction or reimbursement of chambers’ rent and expenses during parental leave.
  - (c) The procedure for dealing with grievances under the policy.
  - (d) Chambers’ commitment to review regularly the effectiveness of the policy.
4. Where rent is paid on a flat rate basis, chambers must offer its members taking a period of parental leave, or leave following adoption, a minimum of 6 months free of chambers’ rent.

### **Guidance**

5. This guidance relates to best practice for chambers in respect of parental leave.

### **Rent-free periods**

6. Although the parental leave provision, in terms of a reduction in payment of chambers rent, is less generous than other professions in which those on parental leave typically have a continuing right to income from a partnership or employment, the minimum period of six months reflects trends in other professions. In practical terms, a six month rent free period may make the difference between a member being able to afford to take up his/her place in chambers at the end of a period leave, and being unable to afford to do so.
7. Parental leave policies may need to cover non-rental payments such as the interest and re-payments on investments or mortgages or clerks’ fees paid on a percentage basis and any contributions payable in respect of one-off investments, as appropriate.

**Example** – Chambers has purchased its own premises. Some members of chambers own a share in the premises, others do not. Repayments of capital and interest are split between those who own a share in proportion to the size of their shares, and chambers as a whole pays rent to the members who collectively own the premises. Chambers offers the required six month rent free period but decides not to extend this to the mortgage repayments as such payments are made as an investment in the premises. This approach would be permitted under the rules although should chambers wish to cover mortgage payments for a member on leave as a gesture of investing in that individual and retaining talent in chambers, this would be considered best practice and is encouraged.

8. A policy should allow the flexibility for a longer rent-free period. At the same time, a constructive attitude to work during parental leave should be encouraged to permit members of chambers to 'keep their hand in' and continue to feel a valued member of chambers and of the Bar.

**Example –** A member of chambers is on parental leave for six months. Her chambers charges a fixed rent and has a policy which makes clear that informal working arrangements during parental leave do not affect a member's entitlement to a six month rent free period, provided that the head of chambers is kept informed of the arrangements by the member of chambers and is satisfied that the level of work being undertaken does not constitute a return to practice. The member of chambers is therefore able to continue to accept instructions to do paperwork from a small number of solicitors while she is on leave, usually working from home on days when a family member can assist with childcare. This enables her to build up her practice much more quickly when she returns to chambers.

9. The minimum rent-free periods required are not intended to discourage chambers from adopting a more generous policy.

#### **Right to return to chambers**

10. Chambers are encouraged to offer a longer period than the year required by this code.

**Example –** After increasing its pupillage awards, chambers has recruited a number of tenants from its pupils who have developed very successful junior practices. These include a number of women and a gay man who wishes to adopt a child. Chambers is keen to retain its junior tenants and to adopt policies which enable them to balance their family and work commitments. It adopts a parental leave policy which applies to any member of chambers who has primary responsibility for a child, including a newly adopted child of any age, and a career break policy which entitles members of chambers, on giving three months' notice to chambers, to give up their room and be released from their obligations to pay fixed rent to chambers, while retaining the right to return to chambers, again on three months' notice, at any stage up to five years after their career break began.

#### **Assistance to work during parental leave or career break and to return to chambers**

11. Chambers are encouraged to respond positively to members' wishes to work during their parental leave or any career break, and policies which prohibit the undertaking of work during these periods should not be adopted.
12. The written policy should set out how chambers will assist members to keep in touch with chambers and with practice developments during any period of leave and return to practice.
13. Invitations to training, social events and other information about chambers business should be given to members on parental leave or a career break. Chambers should also, where appropriate, consult them in relation to major chambers decisions.

#### **Leave for carers of disabled dependents**

14. It is recommended that, on request, chambers offer members who are the primary carers of a disabled dependent a period of leave to care for that dependent. Such a period of leave should be free of rent. The length of such leave will be a matter for individual chambers to decide and will depend on the specific need of the member concerned.

### **Reviewing policies and procedures**

15. Chambers' parental leave policies and their application should be monitored and reviewed by the Equality and Diversity Officer. Concerns about the policies or their operation may be raised informally or under the chambers grievance procedures.

### **Model Parental Leave policy**

16. A model chambers parental leave policy is set out at section 12.

### **Other Sources of Information**

- Bar Council Equality and Diversity Helpline – 020 7611 1310.
- Information about tax credits and child benefits can be accessed via the HM Revenue & Customs <http://www.hmrc.gov.uk/individuals/index.shtml>.
- Information about 'keeping in touch days' can be accessed at [http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Pregnancyandmaternityrights/DG\\_175088](http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Pregnancyandmaternityrights/DG_175088).
- Information regarding claiming statutory maternity allowance can be found at the Directgov website <http://www.direct.gov.uk>.

## Section 10 – Flexible and part-time working and career breaks

### Legal requirements

1. Employees of chambers are covered by the legislation relating to entitlement to request flexible working arrangements. An explanation of this legislation can be found on the relevant part of the Business Link website at: [www.businesslink.gov.uk](http://www.businesslink.gov.uk). However most barristers are self-employed and so are not covered by these provisions. It may be necessary for chambers to facilitate flexible working for disabled persons as a reasonable adjustment, depending on the circumstances.

### Regulatory Requirements

2. 408.1 (j) – Chambers must have a flexible working policy which covers the right of a member of chambers to take a career break, to work part-time, to work flexible hours or to work from home to enable them to manage their family responsibilities or disability and remain in practice.

### Guidance

#### Advantages of flexible working arrangements

3. Some barristers find that the demands of full-time practice, or the financial burden of paying full-time fixed contributions but receiving fees from part-time practice, make continued practice at the Bar unviable. Flexible working arrangements may enable these barristers to remain in practice. There is an equality and diversity aspect to this, because a disproportionately high number of women leave the Bar, often after having children and during the years when their children are still young. This is a loss to the Bar and to chambers which in many cases might be avoided if flexible working arrangements had been made available.

#### Guidance on developing a policy

4. The Bar is ideally suited to flexible working. Solicitors and lay clients do not expect barristers to be available at all times, not least because of their commitments to other clients, for example during trials a long distance from chambers, or due to part-time judicial appointments, writing commitments, or academic or political appointments. Remote access to chambers computers and telephone networks means that it is now common for barristers to work from home, often for reasons of convenience unconnected with childcare or other domestic responsibilities.

**Example** – A barrister agrees with chambers that while his children are young, he will go to court, do conferences, and attend chambers meetings and marketing events only every other week, with the alternate week being spent doing paperwork at home. He is able to make other arrangements in special circumstances, or for trials which last longer than a week but finds that this is necessary only rarely. He agrees to move to a smaller room in chambers in return for a reduced fixed contribution to chambers expenses. These flexible working arrangements enable him to take his children to school and collect them, and to be at home with them before and after school hours. When they are older and can manage without him, he returns to full-time practice, moves back to a larger room, and increases his financial contribution to chambers.

5. In developing a written policy, chambers should also consider whether the way in which financial contributions to chambers are structured has the effect of preventing members of chambers from adopting these or other flexible working arrangements.

6. For example, financial contributions may be structured in a particular way to achieve certain aims, such as to ensure that barristers' contributions fairly reflect the space they occupy in chambers. These are legitimate aims, but chambers should also consider whether alternative arrangements can be adopted to achieve the same aims in a more proportionate manner.
7. Members of chambers with flexible working arrangements should be given opportunities to take part in all aspects of chambers activities, including continuing professional development, marketing and social activities. The nature of individual members' flexible working arrangements should be taken into account when these activities are being arranged.

**Example –** A barrister agrees with chambers that while her children are below school age, she will, so far as possible, work Monday to Thursday, and will not go to court, do conferences, or come into chambers on Fridays. Two other members of chambers, who already work a four-day week, work a different pattern of days. Chambers organises a buffet lunch for barristers and staff once every three months, always on a Friday. This is the only social event which the whole of chambers attends, except for an annual party. At the suggestion of the Equality and Diversity Officer, the Head of Chambers decides that the day of the week on which chambers' lunch takes place will rotate, so that all members of chambers working part-time are able to attend at least some of the lunches and maintain contact with other barristers, clerks and staff, without making special arrangements to come into work on a non-working day.

8. Individual practitioners should themselves be proactive in proposing and seeking to agree fair arrangements for rent and the use of chambers' resources, including accommodation, with their chambers. Rental arrangements should be agreed and understood before any period of flexible working commences.

## Section 11 – Providing services to disabled people

### Legal requirements

1. It is unlawful to discriminate against someone, because of any protected characteristic, including disability, by refusing to provide a service, providing a lower standard of service, or offering a service on different terms than to other people.
2. The Equality Act 2010 contains the duty to make reasonable adjustments<sup>25</sup>. Reasonable adjustments need to be made where a practice, policy or procedure, or physical feature of premises, make it impossible or unreasonably difficult for a disabled person to make use of a service. The duty also includes making reasonable adjustments in the form of auxiliary aids or additional services (for example, the provision of information on audio tape, or of a sign language interpreter) to enable disabled persons to make use of the services provided.
3. It is unlawful for a barrister to pass on the costs of making reasonable adjustments to the individual or individuals for whom those adjustments are made<sup>26</sup>.

### Regulatory Requirements

4. Chambers must have a reasonable adjustments policy aimed at supporting disabled clients, barristers and visitors to chambers.

### Guidance

5. This guidance is intended to assist chambers, individual barristers and chambers staff including clerks, in providing services to disabled people in a manner which complies with equality legislation and this code by ensuring that chambers has a policy enabling disabled people to request, and chambers to consider, reasonable adjustments so as to comply with the legal requirements.
6. Chambers are encouraged to provide training in equality and diversity issues to all members of chambers, staff and pupils. This guidance is not a substitute for training. Disability discrimination gives rise to particular issues in relation to service provision, and chambers should review its premises and its policies, practices and procedures periodically to ensure they comply with the law, and this code. This review should extend to services which are provided to or on behalf of chambers, to the public or a section of the public, by external service providers such as IT consultants and web designers.
7. Further information and advice is available from the sources listed in the Directory. See also the guidance document 'Making Chambers Accessible', which is available from the Guidance section of the Bar Council website  
[www.barcouncil.org.uk/media/43938/disability\\_access\\_making\\_chambers\\_accessible.pdf](http://www.barcouncil.org.uk/media/43938/disability_access_making_chambers_accessible.pdf).

### Reasonable adjustments

8. The Equality Act 2010<sup>27</sup> imposes a duty on a barrister to make reasonable adjustments. The legal duty to make reasonable adjustments comprises three requirements to make reasonable adjustments:
  - a) where there is a provision, criterion or practice which puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled

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<sup>25</sup> S.20 Equality Act 2010

<sup>26</sup> S.20 (7) Equality Act 2010

<sup>27</sup> S.47 Equality Act 2010

- b) where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled
- c) where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in comparison with persons who are not disabled.

Where the provision of information is a requirement under a) and c) it must be provided in an accessible format.

- 9. A failure to comply with the duty to make reasonable adjustments is discrimination against the disabled person.
- 10. Further information on the types of reasonable adjustment that can be made can be found at [www.equalityhumanrights.com](http://www.equalityhumanrights.com) (see specifically the EHRC guide, “Examples of Reasonable Adjustments”).

**Example –** A solicitor tells a clerk that a client who will be coming to chambers is visually impaired. The clerk asks the solicitor, who has visited chambers before, to discuss with the client whether any adjustments need to be made. After discussion with the solicitor, the client suggests that the conference should start mid-morning so that she can travel on the underground after the rush hour, asks for drinking water to be made available for her dog together with somewhere for it to relieve itself, and asks for any documents which the barrister is preparing for discussion at the conference to be made available to her electronically so that she can adjust the size of the text on her computer.

- 11. In the context of the provision of legal services, the purpose of reasonable adjustments is to provide access to the service for a disabled client as close as it is reasonably possible to get to the standard normally offered to other clients who are not disabled.

**Example –** Chambers’ premises are on the third floor of a listed building in the Temple. In order to ensure that it can offer services to disabled clients whose mobility is impaired, chambers agrees with the occupants of the ground floor premises the use of conference rooms, waiting and toilet facilities as required, in return for a fee. Chambers does not charge disabled clients an additional fee to cover the cost of using the ground floor premises, but absorbs the cost within its general overheads.

- 12. If chambers makes an additional service available to clients for which there is normally a charge it will have to consider whether that additional service is a reasonable adjustment in relation to the disabled client. If it is a reasonable adjustment, the cost cannot be passed on to the disabled client.

**Example –** A sole practitioner conducts conferences in chambers or at the solicitor’s office. If she conducts a conference at the solicitor’s office, she charges for the cost of travel. The barrister has to conduct the conference at the solicitor’s office because chambers premises are inaccessible for the mobility impaired client. The barrister does not pass on to the client the cost of making this reasonable adjustment.

- 13. Chambers should state on its website and in any publicity material that reasonable adjustments will be made and should identify the person or persons to whom requests should be made.
- 14. The Equality and Human Rights Commission website notes that: “*When deciding whether an adjustment is reasonable, service providers can consider issues such as the cost of the adjustment, the practicality of making it, health and safety factors, the size of the organisation, and whether it will achieve the desired effect. ... In considering what is reasonable, you may consider factors such as your organisation’s financial resources: generally, more is expected of larger organisations.*”

15. The law requires the removal of barriers to accessing a service but does not require a fundamental change in the nature of the service provided. For example if a barrister does not do work on a conditional fee basis, the barrister is not required to accept a case on a conditional fee basis for a disabled person. Making this adjustment would fundamentally alter the nature of the services offered by the barrister.

**Reasonable Adjustments Policy Requirement**

16. The regulations require that chambers develop a reasonable adjustments policy aimed at supporting disabled clients, barristers and visitors to chambers.
17. A sample reasonable adjustments policy is set out in section 12 of this guidance entitled “Model Policies”.
18. Reasonable adjustments policies should set out the aims of chambers in respect of the provision of reasonable adjustments, i.e. what chambers wishes to achieve through the implementation of the policy.
19. Reasonable adjustment policies should also cover:
  - a. the mechanisms in place for a person to ask for an adjustment to be made
  - b. how decisions on reasonable adjustments will be made and by whom
  - c. what mechanisms exist to ensure that the relevant factors are considered in reaching a decision as to whether any step is a reasonable adjustment.

## Section 12 – Model policies

### Model Harassment Policy

1. This is a model chambers' harassment policy. For further information, see Section 8 on Harassment.
2. [Name of Chambers] is committed to providing a work environment in which all individuals, clients and the public are treated with dignity and respect. [Name of Chambers] is determined to promote a work environment in which everyone is treated equally and with dignity and can flourish.
3. Harassment in any form will not be tolerated at [Name of Chambers]. Harassment includes any unwanted conduct related to sex, race, disability, gender re-assignment, religion or belief, sexual orientation or age. Such behaviour may take many forms including:
  - conduct which is unwanted by the recipient and perceived as hostile or threatening;
  - conduct which gives rise to a hostile or threatening work environment;
  - conduct which creates an atmosphere in which it is feared that rejection or submission will be used as a basis for decisions which have an impact on the recipient at work such as an allocation of work or tenancy decision.
4. The following are examples of types of behaviour which may amount to harassment:
  - physical or sexual assault;
  - requests for sexual favours in return for career advancement;
  - unnecessary physical contact;
  - exclusion from social networks and activities or other forms of isolation;
  - bullying;
  - compromising suggestions or invitations;
  - suggestive remarks or looks;
  - display of offensive materials, including on a computer screen;
  - tasteless jokes or verbal abuse, including any sent by email;
  - offensive remarks or ridicule;
  - dealing inappropriately or inadequately with complaints of harassment.
5. Harassment is unlawful under the Equality Act 2010<sup>28</sup>. In addition to the above unwanted conduct, it can arise where a person engages in any kind of unwanted sexual behaviour (or gender reassignment or sex related behaviour).
6. Complaints of harassment may be raised informally in the first instance with [Name of chambers' Equality and Diversity Officer], the Head of Chambers or another senior member of chambers who will agree an appropriate response. Formal complaints should be made under the [Name of chambers]' grievance procedure.
7. Harassment is misconduct for employees or a breach of the Bar Code of Conduct for barristers. Allegations of harassment will be dealt with under the [Name of chambers]' disciplinary procedure.
8. Chambers is committed to ensuring that no-one who makes an allegation of harassment in good faith should be subjected to any detriment as a result. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be viewed as a disciplinary matter.

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<sup>28</sup> S.26 Equality Act 2010

9. A copy of this policy is provided to all those for whom chambers constitutes a working environment, including members of chambers, pupils, squatters, clerks and other employees, temporary workers, those who provide services to chambers such as contract cleaners, accountants and IT consultants, and mini-pupils and work experience students.
10. This policy was adopted on [date] and will be reviewed on [date].

### **Model Parental Leave Policy**

1. This is a model parental and adoption leave policy for chambers. Chambers are encouraged to adapt this for their own use. For further information see section 9 on Parental Leave above.

### **Introduction**

#### **Definitions**

2. "parental leave" refers to leave taken by the main carer of a child following birth or adoption. This could be the mother, father or adoptive parent of either sex.

#### **Aims and purpose**

3. It is the aim of this policy to:
  - encourage members following parental leave to return to chambers and continue to build successful practices;
  - prevent discrimination on grounds of parental responsibility;
  - encourage and support members taking time off following the birth or adoption of a child without suffering financial hardship;
  - comply with the requirements of the Code of Conduct and accompanying Guidelines.

#### **Circulation**

4. This policy is circulated to all members, clerks and staff all of whom are required to:
  - read and understand the policy; and
  - understand their role in relation to the policy.

#### **Review of this Policy**

5. This policy is reviewed by chambers Equality and Diversity Officer every two years.

#### **Parental Leave**

6. Every member of chambers is entitled to return to chambers within a period of one year after giving birth or adopting a child for whom they are the primary carer.
7. A member of chambers taking a period of parental leave is entitled to 6 months' free of chambers rent and expenses.<sup>29</sup>
8. Members of chambers are required to notify chambers management and clerks of their intention to take a period of parental or adoption leave not less than [x months] before the commencement of the period of leave indicating the estimated commencement date and likely date of return.
9. If a member wishes to take more than 6 months' rent free parental or adoption leave s/he should notify chambers' management and clerks [x weeks] before the end of that period stating the estimated date on which s/he intends to return.

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<sup>29</sup> The 6 month period free of rent and expenses or free of the levy on receipts does not extend to mortgage repayments, one off investments or clerks' fees.

10. If a member wishes to take leave for a period longer than 12 months, this should be arranged with chambers management.
11. If a member is absent from chambers for more than 12 months without agreeing an extension with chambers management, her/his automatic right to return to chambers ceases unless such absence is due to consecutive births.<sup>30</sup>
12. Where membership ceases by virtue of the provisions in paragraph 11, a member can re-apply to chambers in the usual way.

### **Arrangements During Leave<sup>31</sup>**

13. A member on parental or adoption leave is encouraged to maintain contact with chambers.
14. Head of Chambers will ensure that the member is:
  - offered opportunities to do appropriate work if this is requested and;
  - invited to training events, social occasions, marketing events and chambers meetings and;
  - is consulted on any significant issues affecting the practice of chambers and;
  - receives assistance with the re-establishment of their practice on return to work, including (where requested) the arrangement of a “practice meeting” with the relevant clerk within two weeks before the member returns to work.

### **Undertaking work during leave**

15. (FLAT RATE) Informal working arrangements during a period of parental leave do not affect a member’s entitlement to the six month period free of rent, provided that the Head of Chambers is kept informed of the arrangements by the member of chambers and is satisfied that the level of work being undertaken does not constitute a return to practice.

### **Return from Leave**

16. It is the policy of [insert name of chambers] to enable parents to work reduced hours on return from a period of parental or adoption leave. This should be discussed with chambers’ management and clerks.

### **Complaints**

17. Any member who wishes to make a complaint regarding a breach of this policy should in the first instance contact chambers’ Equality and Diversity Officer.

### **Contact**

18. Chambers Equality and Diversity Officer is [insert name] [insert contact number].
19. [insert name] is the point of contact for all queries regarding this policy.

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<sup>30</sup> Chambers are encouraged to offer a longer period than the year required by the Code of Conduct.

<sup>31</sup> For further guidance and information please see the Bar Council maternity leave and career break checklist on the Bar Council website (<http://www.barcouncil.org.uk/guidance/MaternityPaternityParentalLeavePoliciesThingstothinkabout/>)

## **Model Reasonable Adjustments Policy**

1. This is a model reasonable adjustments policy for chambers. Chambers are encouraged to adapt this for their own use. For further information please see section 11 on providing services to disabled people above.

### **Aim and remit of policy**

2. Aim: this section should set out what chambers wishes to achieve through the development of this policy.
3. (Name of chambers) is committed to making reasonable adjustments in order to remove or reduce substantial disadvantage for disabled people working with chambers or receiving legal services. This policy covers all employees of chambers, barristers, clerks, pupils, mini-pupils and visitors to chambers.

### **Circulation**

4. This policy is circulated to all members, staff, pupils, clerks and those who are required to read and understand it.

### **Definition of disability**

5. For the purposes of this policy the definition of disability follows that set out in the Equality Act 2010 s.6. A person is therefore disabled if s/he has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day-to-day activities. "Substantial" means more than minor or trivial and "long term" means 12 months or more".

### **Types of reasonable adjustment**

6. This policy does not provide an exhaustive list of the reasonable adjustments that chambers will make for staff, barristers, pupils or visitors however the following types of adjustment that may be made are listed below:
  - a. Provision of information in alternative formats (e.g. large print, Braille etc)
  - b. Paid leave for disabled employees of chambers
  - c. Provision of auxiliary aids e.g. induction loops
  - d. Provision of accessible conference room facilities
  - e. Provision of a reader or interpreter

### **Staff, barristers and others in chambers**

7. Staff or barristers with specific requirements should make requests to (insert name and job title) for reasonable adjustment decisions. All requests for reasonable adjustments will be considered on a case by case basis with the advice and assistance of chambers' Equality and Diversity Officer and where it is not possible to make the adjustment requested (Name of chambers) will discuss viable alternatives with the applicant.
8. Head of Chambers is responsible for considering whether or not disabled staff, barristers or pupils require assistance during an emergency evacuation and if so whether or not a personal emergency evacuation plan is required for the individual/s concerned. If so, the plan will be developed in partnership with the individual concerned in order to ensure that adjustments to the emergency evacuation procedure may be made.

### **Visitors to chambers**

9. Barristers are responsible for considering reasonable adjustment requests for their visitors. They are also responsible for anticipating any likely reasonable adjustments that will need to be made for visitors whom they know to be disabled and are likely to

require assistance. Visitor requests for specific reasonable adjustments may be made by contacting (insert name and contact details).

Cost of making reasonable adjustments

10. In no circumstances will (name of chambers) pass on the cost of a reasonable adjustment to a disabled person.

**Monitoring and review**

11. This policy is reviewed by chambers' Equality and Diversity Officer every two years. The date of the last review was (insert date).

## Section 13 – Directory

This section lists organisations and information resources in the field of equality and diversity. Please email the Bar Council's Equality and Diversity Officer with any corrections, updates or suggestions for additions: [ACampbell@BarCouncil.org.uk](mailto:ACampbell@BarCouncil.org.uk)

### **Bar Council Equality and Diversity Adviser**

Email: [PBhalla@BarCouncil.org.uk](mailto:PBhalla@BarCouncil.org.uk)

Confidential helpline: 020 7611 1310

Open to practising barristers, pupils and law students

### **Bar Code of Conduct**

Website: [www.barstandardsboard.org.uk/standardsandguidance/codeofconduct](http://www.barstandardsboard.org.uk/standardsandguidance/codeofconduct)

### **ACAS**

Website: [www.acas.org.uk](http://www.acas.org.uk)

Information and advice on employment and discrimination law

### **The Association of Muslim Lawyers**

Website: [www.aml.org.uk](http://www.aml.org.uk)

Email: [aml@aml.org.uk](mailto:aml@aml.org.uk)

### **The Association of Women Barristers**

Website: [www.womenbarristers.co.uk](http://www.womenbarristers.co.uk)

Email: Via website

### **Bar Lesbian and Gay Group**

Website: [www.blagg.org](http://www.blagg.org)

Email: [info@blagg.org](mailto:info@blagg.org)

### **Deaf Lawyers UK**

Website: [www.deaflawyers.org.uk](http://www.deaflawyers.org.uk)

### **Department for Business, Innovation and Skills**

Website: [www.bis.gov.uk](http://www.bis.gov.uk)

Telephone: 020 7215 5000

### **Discrimination Law Association**

Website: <http://www.discriminationlaw.org.uk>

Telephone: 0845 478 6375

### **The Employers Forum on Age**

Website: [www.efa.org.uk](http://www.efa.org.uk)

Information for employers about law and good practice in relation to age

### **The Employers Forum on Belief**

Website:

[www.efrb.org.uk](http://www.efrb.org.uk)

Information for employers about law and good practice in relation to religion, belief and non-belief

### **The Employers Forum on Disability**

Website: [www.employers-forum.co.uk](http://www.employers-forum.co.uk)

Information for employers about law and good practice in relation to disability

### **Equality and Human Rights Commission**

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Includes the websites of the former Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission

Email: [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com)

Helpline: England 0845 604 6610; Wales: 0845 604 8810

### **The Gender Trust**

Website: <http://www.gendertrust.org.uk/>

A UK charity providing support and advice to adults who are Transsexual, Gender Dysphoric, Transgender (i.e. those who seek to adjust their lives to live as women or men, or come to terms with their situation despite their genetic background), or those whose lives are affected by gender identity issues.

Helpline: 0845 231 0505

### **Jobcentre Plus**

Website: <http://www.jobcentreplus.gov.uk>

Provides funding for adjustments for disabled people in the workplace through the 'Access to Work' Scheme. Contact the Disability Employment Advisor in the local Jobcentre for information on how to apply.

### **Judicial Studies Board**

Website: [www.jsboard.co.uk/etac](http://www.jsboard.co.uk/etac)

Equal treatment resources

### **LawCare**

Website: [www.lawcare.org.uk](http://www.lawcare.org.uk)

Helpline: 0800 018 4299

### **Lawyers' Christian Fellowship**

Website: [www.lawcf.org](http://www.lawcf.org)

Email: [admin@lawcf.org](mailto:admin@lawcf.org)

### **MIND – National Association for Mental Health**

Website: [www.mind.org.uk](http://www.mind.org.uk)

This is a mental health charity which works to support people with mental health problems and their carers. Provide advice on employment matters.

### **Royal National Institute of Blind People**

Website: [www.rnib.org.uk](http://www.rnib.org.uk)

Includes detailed information about website accessibility

Email: [helpline@rnib.org.uk](mailto:helpline@rnib.org.uk)

Telephone: 0303 123 9999

### **Society of Asian Lawyers**

Website: [www.societyofasianlawyers.com](http://www.societyofasianlawyers.com)

Email: [info@societyofasianlawyers.com](mailto:info@societyofasianlawyers.com)

### **Society of Black Lawyers**

Website: <http://blacklawyer.org>

### **Stonewall**

Website: <http://www.stonewall.org.uk/>

A campaigning and advisory charity working to achieve equality and justice for lesbians, gay men and bisexual people.

**The United Kingdom Association of Jewish Lawyers and Jurists**

Website: [www.jewishlawyers.co.uk](http://www.jewishlawyers.co.uk)

Email: [UKAJLJ@jewishlawyers.co.uk](mailto:UKAJLJ@jewishlawyers.co.uk)

Telephone: 020 8958 6110