

# HAILSHAM CHAMBERS EQUALITY & DIVERSITY POLICY

This policy sets out Chambers' policy on diversity and explains the law and our commitment in relation to equality of opportunity.

## Introduction

We are committed to offering equality of opportunity and oppose all forms of unlawful discrimination.

This policy applies to employed members of staff, and to pupils and tenants of Chambers (referred to collectively as "barristers" where applicable). In some cases, there are specific aspects of the policy relating to barristers and compliance with our obligations under the BSB Handbook

We believe that individuals should be treated on their merits and that decisions relating to their role in Chambers should be based on objective job-related criteria such as aptitude and skills. For these reasons, all employees and barristers (and particularly managers/supervisors and others with responsibility for work-related decisions), must comply with the policies described below.

We start by explaining the law and how it relates to certain employment practices (in that, we use the term "employment" generally to cover employees, barristers and pupils). We then explain some specific legal issues relating to disability and go on to set out our policy in relation to following areas:

- recruitment
- access to work
- pay and benefits
- promotion and training
- disciplinary, performance improvement and redundancy procedures.

## The law

1. It is unlawful to discriminate against employees, barristers and other workers because of sex, marriage or civil partnership, gender reassignment, pregnancy or maternity, sexual orientation, race (including colour, nationality, ethnic or national origins), religion or belief, disability and age. These are known as "protected characteristics".
2. The law divides discrimination into four broad categories – direct discrimination, indirect discrimination, harassment and victimisation.
  - (a) **Direct discrimination** involves treating a person less favourably because of a protected characteristic (for example not promoting an individual because of his or her race or sexual orientation). It includes discrimination because of perceptions or assumptions about a person's characteristics, even if these are incorrect (for example, not promoting an individual because he is assumed to be gay). It also includes discrimination because a person associates with someone who has a protected characteristic (for example, not promoting an individual because he or she has a disabled child). Direct discrimination cannot be justified (with the exception of age discrimination).
  - (b) **Indirect discrimination** occurs when an apparently neutral provision, criterion or practice is applied across all groups, but this would put those with a particular

protected characteristic at a particular disadvantage when compared with others who do not share this characteristic. Indirect discrimination will not be unlawful if it can be objectively justified.

- (c) **Harassment** is unwanted conduct related to a protected characteristic or of a sexual nature which has the purpose or effect of:
- (i) violating an individual's dignity; or
  - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Please also refer to Chambers' Dignity at Work policy.

- (d) **Victimisation** has a particular legal meaning and involves subjecting a person to a detriment because he or she has complained about discrimination or assisted somebody else in doing so.

3. It is not normally an answer to an allegation of discrimination to say that the discrimination was not intentional or deliberate.
4. The law makes it unlawful to discriminate against job applicants (in recruitment arrangements and decisions), employees/barristers and other workers (in relation to terms and conditions of employment/work, opportunities for training and promotion, dismissal and other matters) and to certain ex-employees (e.g. in relation to references).

### **Disability discrimination**

5. In relation to disability discrimination, as well as the types of discrimination explained above, the law also makes it unlawful to treat a disabled person unfavourably *because of something arising in consequence of his or her disability, unless this justifiable*. This is a broad test and includes, for example, treating someone unfavourably because they need to take time off work for medical treatment due to a disability. The law also imposes a duty to make reasonable adjustments to accommodate the needs of the disabled person, which could include alterations to work stations, duties, hours or working practices.
6. The group of people protected as "disabled" covers not just those with physical disabilities, such as people in wheelchairs, but also people with mental impairments and less obvious physical impairments (such as, for example, some forms of RSI and clinical depression). Depending on the circumstances, lack of knowledge that someone is disabled may not be a defence. You should always consider that an individual might have an impairment that counts as a disability without you knowing this.

### **Our policies**

7. We have set out our specific policies on various employment situations below.
8. We also have a separate Dignity at Work policy which covers bullying and harassment, including harassment on the grounds of protected characteristics.

### **Recruitment**

9. The principles set out at paragraphs 10 to 17 below apply to recruitment for all our vacancies. Additional principles applying to specific categories of recruitment are set out at paragraph 18.
10. Other than the recruitment of starter tenants from among Chambers own pupils, all vacancies will be advertised simultaneously internally and externally (via Chambers' website). All

advertising and recruitment literature should reflect our commitment to equal opportunities and not enhance stereotypes. Adverts for vacancies will also include a statement of compliance with the equality and diversity rules in the BSB Handbook, section D1.2, Rule C110.

11. The recruitment process should not disadvantage disabled people and reasonable adjustments to the process (and particularly at any interview) should be considered.
12. Criteria for selection should be objective, fair and appropriate. Any criteria which may disadvantage those with certain protected characteristics should be retained only when justifiable in terms of the job to be done.
13. Questions at interview should relate to the requirements of the job. Questions should not be asked which could disadvantage certain groups, and questions should not be asked of those with a particular protected characteristic that would not be asked of everyone.
14. Selection procedures should be objective. Each candidate should be assessed according to his or her capability to carry out the job. It should not be assumed that certain groups should perform certain kinds of work or "will not fit in".
15. When considering a disabled candidate's suitability for the job, he/she should be assessed on the assumption that any reasonable adjustments have been made (for example, if someone needs a special keyboard and this is a reasonable adjustment, his/her ability to do the job compared with other candidates should be assessed on the assumption that the keyboard has been provided).
16. Wherever possible, more than one person should be involved in the recruitment process and all should have training in equal opportunities.
17. Records of interviews and the reasons for selection and rejection of candidates should be recorded and kept for a reasonable period.
18. Additional principles will apply, as follows:

(a) Recruitment of pupils

These principles apply to recruitment of twelve month pupils. The pupillage procedures do not apply to candidates for mini-pupillage, but such candidates will be selected by reference to objective criteria.

- (i) Chambers will maintain a written pupillage selection procedure, which will be reviewed regularly. Copies will be made available to applicants for pupillage.
- (ii) Applications for twelve month pupilages will be accepted by application form only. No private arrangements to take pupils will be permitted.
- (iii) Applicants will be asked to complete diversity monitoring forms which will be reviewed by a Chambers Equal and Diversity Officer by reference to gender, race, disability and age of those applying, being shortlisted and being recruited.
- (iv) Candidates will be scored (and compared) according to objective criteria and using a scoring scale established prior to interview.

(b) Recruitment for vacancies for tenancy

These principles apply only to recruitment from pupils for tenancy vacancies. Discussions with established practitioners seeking to join chambers will be dealt with separately, but in accordance with Chambers' commitment to equality and diversity.

- (i) Chambers' own pupils will be informed as to when vacancies for tenancy will be identified and the selection process. The principal basis for selection will be feedback reports from Members of Chambers on work undertaken by candidates during their pupillage, assessed according to objective criteria. Internal candidates will be considered before external candidates.
- (ii) For externally advertised tenancy vacancies, short-listing of applicants for interview will be carried out by at least two Members of Chambers by reference to the objective criteria set for the role.
- (iii) Members of any selection committee shall be familiar with the requirements in section D1.2 (Equality & Diversity), Rule C110 of the BSB Handbook.
- (iv) Interviews will be structured according to the selection criteria.
- (v) Recruitment decisions will be made in a Chambers meeting or by a poll of all Members of Chambers. No single Member of Chambers shall be permitted to make (or to veto) an application alone.

#### ***Pay and benefits***

19. Employees are entitled to receive equal pay for work of equal value, unless there is a material factor that accounts for the variation.
20. Benefits should be offered to all employees equally unless there is a good justification for not doing so.

#### ***Access to work***

21. Chambers is committed to providing fair access to work for tenants and pupils. Chambers has a software system for the monitoring of work distribution to barristers in Chambers. Responsibility for ensuring regular monitoring of the distribution of work rests with Chambers Equality and Diversity Officers, in conjunction with the Senior Clerk, with particular reference to
  - (a) the distribution of unnamed work coming into Chambers;
  - (b) the re-distribution of work between Members of Chambers and pupils and junior tenants;
  - (c) the distribution of work among pupils and tenants of up to 5 years' call and Members of Chambers returning from a period of maternity leave or other family leave, or leave of absence, other than normal holiday.

The monitoring process will have regard to requirements in section D1.2 (Equality & Diversity), Rule C110 of the BSB Handbook.

22. Chambers will arrange regular meetings of:
  - (a) the Senior Clerk, the Head of Marketing and appropriate Members of Chambers to discuss practice development; and

- (b) Chambers' practice groups to facilitate the discussion of individual and Chambers issues in relation to marketing.

### ***Promotion and training***

- 23. Employees (and pupils/barristers where applicable) should have equal opportunities for promotion and training. When general ability and personal qualities are the main requirements for promotion to a post, care should be taken to consider properly candidates with differing career patterns and general experience. There should be no stereotypical assumptions about the ambitions or otherwise of any individual from a particular group.
- 24. Training and development should not stop because someone is pregnant or has childcare responsibilities. Nor should assumptions be made on this basis about interest in promotion.
- 25. Managers should not base decisions about promotion, training or career development on whether or not an the employee or pupil/barrister participates in social events with colleagues outside of office hours, particularly where those events involve alcohol, particular locations or activities and might therefore discourage individuals from certain groups from joining in.

### ***Disciplinary, performance improvement and redundancy procedures***

- 26. Care should be taken to ensure that those with a particular protected characteristic are not sanctioned for performance or behaviour that would be condoned or overlooked in another group.
- 27. If selection for redundancy becomes necessary, the selection criteria and process should be designed to avoid direct and indirect discrimination. For example, be careful when using absence-related criteria (because these may disadvantage disabled or pregnant workers) and adjustments might need to be made to ensure that such criteria are fair.

### ***Monitoring our effectiveness***

- 28. Chambers Equality and Diversity Officers will be responsible for monitoring the effectiveness of this policy.
- 29. In order to review and maintain progress against our policies we carry out the following equal opportunities monitoring in relation to gender, race, disability and age:
  - (a) The number and percentage of staff, barristers and pupils from different groups;
  - (b) Applications for pupillage, staff and membership of Chambers;
  - (c) The allocation of unassigned work.
- 30. Our reviews include collecting and analysing relevant data and investigating any underlying trends in that data and potential causes. Where we identify any need to take action, the Equality and Diversity Officers will make recommendations to the Management Committee.
- 31. Your co-operation in this process is valued, as is any feedback or suggestions you may have for improving this policy.
- 32. Chambers provides equality and diversity training to staff and barristers. In particular, all clerks who are involved in the distribution of work and the Head of Marketing will be provided with appropriate training.

### **What to do if you have a complaint?**

33. If you believe that discrimination is taking place, you could speak informally to the person responsible, your manager or the Equality and Diversity Officer(s). You may also consider a grievance or, if you are being harassed, a complaint under our Dignity at Work policy.

### **Your responsibilities**

34. Whilst overall responsibility for this policy rests with the Head of Chambers and Equal Opportunity Officer(s), all Members of Chambers and managers are responsible for ensuring that this policy is applied within their own area.
35. You have a personal responsibility to comply with this policy and do your best to ensure that it is adhered to in your day-to-day work. You must not discriminate or help others to do so in contravention of this policy. Breaches of this policy will be taken seriously and are likely to result in disciplinary action, up to and including dismissal/discharge. You may also be personally liable towards anyone you unlawfully discriminate against (which may include paying compensation on top of any compensation we might be ordered to pay).

### **Status and application of this policy**

36. We aim to apply this policy to all those working at our workplace, including any agency, casual and freelance staff as well as employed members of staff, tenants, pupils and mini-pupils. Aspects of this policy may need to be applied in different ways to cater for the different groups who may work for Chambers.
37. This policy is not part of any contract of employment and does not create contractual rights or obligations. It may be amended by us at any time.