

# ***10 KBW: Equality and Diversity Policy***

## **INTRODUCTION**

1. Chambers recognises that equality of opportunity is fair, constitutionally important and helps to attract and retain an experienced, talented and diverse Bar. It accordingly adopts this Equality and Diversity Policy.
2. This policy shall be reviewed at least every 2 years.

## **Interpretation**

3. In this policy:
  - 3.1. *Chambers* means ‘The Chambers of C J Algar, 10 Kings Bench Walk’;
  - 3.2. *Junior* means ‘below 11 years’ independent practice’;
  - 3.3. *Senior* means ‘above 10 years’ independent practice’;
  - 3.4. *EDCB* means ‘Equality and Diversity Code for the Bar’;
  - 3.5. *Members* means ‘Members of Chambers, not including door tenants, squatters, pupils and employees’;
  - 3.6. *General Meeting* means ‘a meeting called of all Members’, which may be an Annual General Meeting or an Emergency General Meeting. Decisions of the General Meeting are binding upon the whole of Chambers, including the Management Committee;
4. Where any part of this policy provides for anything to be done by a body comprising more than one Member acting jointly, that body shall comprise at least one junior and one senior Member.

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## **Section A: RECRUITMENT**

### 1. General

- 1.1. Chambers will not discriminate on the ground of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief or pregnancy and maternity or paternity.
- 1.2. All vacancies within Chambers will be advertised in advance of the recruitment process. Such advertisement will comply with Bar Council rules about places of advertisement where specified and:
  - 1.2.1. Encourage applications from groups which are under-represented in Chambers;
  - 1.2.2. Include a statement of preparedness to make reasonable adjustments for disabled candidates; and
  - 1.2.3. Include a statement that Chambers seeks to comply with requirements of the EDCB.
- 1.3. Chambers will identify objective and fair selection criteria to be applied in respect of each new vacancy in advance of the recruitment or selection process. The selection criteria will be provided to each candidate, set out in such a manner as to enable each candidate to be objectively assessed by reference to his or her specific qualities. Where appropriate, Chambers will set out the criteria in an application form.
- 1.4. During the short-listing process, all applications will be considered by a minimum of two Members.
- 1.5. The interview/assessment panel ('the panel') will comprise at least three Members. Chambers will take reasonable steps to ensure that the panel includes individuals of different age, gender, racial/cultural backgrounds.

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- 1.6. Interviews will comprise a planned sequence of topics to be discussed with each candidate. Questions need not be identical.
- 1.7. Following the interview/assessment the panel will then make a recommendation to the Management Committee, in respect of which:
  - 1.7.1. The Management Committee will only depart from recommendations of the interview/assessment panel with good reason;
  - 1.7.2. Where the Management Committee is minded to recruit or appoint a candidate for membership of Chambers or a permanent staffing position, it shall consider whether to seek the views of all Members (or all Members of affected practice teams) before making a decision.
  - 1.7.3. Where appropriate the Management Committee may call a General Meeting and invite Members to vote upon whether they wish the recruitment to be decided by vote of the General Meeting or by the Management Committee. In either eventuality the recruitment vote shall be taken on the same day, following the ballot of the General Meeting.
- 1.8. All those involved in the recruitment process within chambers will be familiar with the EDCB and the applicable procedures and selection criteria. The Member in charge of the recruitment process and at least one Member of each panel must have received training in fair selection and recruitment which complies with EDCB requirements.
- 1.9. Records of recruitment decisions will be retained for a 3-month period, in order that feedback can be provided where requested.
- 1.10. Each candidate will be asked to complete an equalities monitoring form. This form will contain a brief explanation for the reason that the form is being sought, and will explain that it will not be seen by any individual involved in the recruitment exercise. When the recruitment/selection process is complete, the Management Committee will:
  - 1.10.1. Analyse the data broken down by race, disability and gender to investigate the reasons for any disparities in that data; and

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1.10.2. Take appropriate remedial action.

### **Recruitment of pupils**

2. In addition to the matters set out above, the following policy applies to the recruitment of pupils:
  - 2.1. Chambers will publish on its website a pupillage policy including pupil selection procedure. Chambers' pupillage policy will be the subject of review by the Management Committee within 3 months of the conclusion of the second six of each pupillage.
  - 2.2. Members will not make private arrangements to take pupils outside Chambers' recruitment policy.

### **Recruitment of Starter Tenants**

3. In addition to the matters set out above, the following policy applies to the recruitment of starter tenants:
  - 3.1. There will be a written policy in relation to the recruitment of starter tenants, which will be made available to all Members and to pupils at the beginning of their pupillage.
  - 3.2. It is Chambers policy to recruit pupils with a view to considering them for tenancy at the conclusion of their pupillage. Chambers will therefore ordinarily recruit starter tenants from amongst its pupils. However, where Chambers is considering recruiting starter tenants from outside Chambers it will advertise such vacancies in accordance with paragraph 1.2 of this Section.
  - 3.3. All applicants for starter tenancies will be considered in accordance with an objective and transparent system of assessment and against the same criteria. Assessments in relation to demonstrated abilities and potential will be sought from a wide variety of sources including their pupil supervisors and any Members for whom the candidate has carried out work during the course of their pupillage. Any feedback from instructing solicitors will be recorded and provided by the senior clerk.

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- 3.4. Where appropriate a pupil applying for a starter tenancy will be interviewed and assessed by a panel. In addition to the matters set out at paragraph 1.5 of this Section, any panel interviewing/assessing an existing pupil in chambers in respect of a starter tenancy shall not include any pupil supervisor who has supervised him or her.

### **Recruitment of established practitioners**

4. Where Chambers is seeking to recruit established practitioners, it shall adhere to the general guidance set out in paragraph 1 of this Section.
5. In the event that Chambers identifies or is approached by individuals or groups of established practitioners with particular experience in a relevant field, paragraphs 1.2 to 1.6 above need not apply.

### **Section B: FAIR ACCESS TO WORK**

#### **Distribution of work**

1. Chambers is committed to ensuring that work is fairly distributed amongst pupils and tenants.
2. Pupils and junior Members should be given the opportunity to develop their practice in a fair and equal manner. To that end, Chambers will develop a system of monitoring patterns of instruction and briefing in a manner that is transparent and open to scrutiny specifically with regards to unallocated and returned work.
3. As regards pupils and junior Members, existing clerks' room software will be used to provide breakdowns of work at 3-monthly intervals which will be reviewed by at least one member of the Management Committee (or, failing that, a Member appointed by the Management Committee) and the senior clerk. In addition to the matters referred to in paragraph 2 of this Section, this analysis will include amount of work done, type of work done, fees earned and solicitors instructing.

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4. All clerks will be fully briefed on the need to distribute work fairly (taking into account the preferences of the barrister in question where they are Members, and training/chambers' needs where they are pupils) and monitor the allocation of work accurately.
5. Chambers will seek to ensure where possible that instructions and briefs are not regularly delivered by solicitors at such times as to preclude those with caring commitments from being eligible for that work.

### **Practice development**

6. Chambers' pupillage policy will provide for regular feedback sessions for working pupils to include discussion of the allocation of work, other opportunities and practice development.
7. Chambers will arrange regular practice development meetings for all Members not less than once per year for the purpose of discussing the allocation of work and practice development. The practice development meeting shall be attended by the Member and the senior clerk. Any Member attending a practice development meeting may at his or her absolute discretion invite another Member to attend the meeting.
8. Chambers will ensure that every pupil is assigned a junior Member to act as mentor. Barristers returning to practice following a career break and junior Members shall be assigned on request a Member over 6 years' independent practice to act as mentor. The role of a mentor shall be to offer advice and guidance regarding practice development and any aspect of life in chambers.

### **Section C: MATERNITY, PATERNITY AND PARENTAL LEAVE**

1. Chambers will offer any Member taking leave following birth or adoption of a child a period of up to 1 year's leave free of the fixed element of rent, extendable by agreement for up to 3 years.
2. Chambers will ensure that:
  - 2.1. Contact is maintained with Members during career breaks and assist in planned returns to practice; and

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- 2.2. All reasonable efforts are made to accommodate any flexible work arrangements sought by a Member returning to work after parental leave.

### **Section D: FLEXIBLE AND PART-TIME WORKING AND CAREER BREAKS**

1. Chambers' rent shall comprise 2 elements: an earnings-related element calculated by a proportion of monthly receipts and a fixed-rate element. Members in the early years of independent practice shall benefit from a discount to the fixed-rate element, calculated by reference to years of Call. The precise proportions, figures and terms of discounts shall be set by resolution of the General Meeting.
2. Chambers acknowledges that its Members are entitled to operate flexible working arrangements, including taking extended leave, career breaks and working flexible hours, part-time or partly from home. Any individual Member wishing to work part-time or take one or more extended periods of leave shall be entitled to apply to the Management Committee for a discount to the fixed-rate element of rent. In calculating the appropriate discount in any particular instance, the Management Committee shall take into account:
  - 2.1. The financial health of Chambers;
  - 2.2. Discounts granted to other Members in similar positions; and
  - 2.3. The length of leave or percentile of the reduction in working time.

Rental arrangements should be agreed and understood before any period of flexible working commences.

3. Chambers will make best use of its resources to enable Members to conduct their practices from alternative locations where desired. Members on flexible working arrangements shall be included in Chambers' business and in Chambers' continuing professional development, marketing and social activities in the same way as full-time working members of Chambers.
4. Chambers does not currently have sufficient office space to afford every Member a dedicated desk. In recognition that not all Members have the same need or wish for desk-space on its premises, Chambers operates a system of priority in allocation of the use of individual desks.

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- 4.1. All desks in Chambers are individually subject to priority allocation.
- 4.2. Priority allocation of desks will be decided by the Management Committee, taking into account of the needs of individual Members, the space available and the period for which individuals have been Members of Chambers.
- 4.3. All desks in the clerks' room are priority allocated to clerks.
- 4.4. The general rule is that all Members shall be entitled to work at any desk which is not being used for the time being, subject to priority allocation.

### **Section E: HARASSMENT**

1. Chambers is committed to providing a work environment in which all individuals, clients and the public are treated with dignity and respect. Chambers is determined to promote a work environment in which everyone is treated equally and with dignity and can flourish.

#### **Forms of Harassment**

2. Harassment in any form will not be tolerated in 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:
  - 2.1. Conduct which is unwanted by the recipient and perceived as hostile or threatening;
  - 2.2. Conduct which gives rise to a hostile or threatening work environment;
  - 2.3. 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.
3. The following are examples of types of behaviour which may amount to harassment:
  - 3.1. Physical or sexual assault;
  - 3.2. Requests for sexual favours in return for career advancement;

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- 3.3. Unnecessary physical contact;
  - 3.4. Exclusion from social networks and activities or other forms of isolation;
  - 3.5. Bullying;
  - 3.6. Compromising suggestions or invitations;
  - 3.7. Suggestive remarks or looks;
  - 3.8. Display of offensive materials, including on a computer screen;
  - 3.9. Tasteless jokes or verbal abuse, including any sent by email;
  - 3.10. Offensive remarks or ridicule; and
  - 3.11. Dealing inappropriately or inadequately with complaints of harassment.
4. Harassment is unlawful under the Equality Act 2010<sup>1</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).

### **Complaints of harassment**

5. Complaints of harassment may be raised informally in the first instance with the chambers' Equality and Diversity Officer, the Head of Chambers or a member of the Management Committee, who will agree an appropriate response. Formal complaints should be made under the Chambers grievance procedure.
6. 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 chambers disciplinary procedure.

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<sup>1</sup> S.26 Equality Act 2010

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7. 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.
8. A copy of this policy shall be made available 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.

### **Section F: COMPLAINTS AND GRIEVANCES**

1. This procedure relates to grievances including complaints of discrimination and harassment. A copy of this policy shall be made available to every pupil, tenant and Chambers' employee.
2. When a grievance is raised or a complaint is made, confidentiality shall be maintained throughout any investigatory process as far as possible and as appropriate in the circumstances. Names of complainants shall not be released (save to those conducting the investigation and to the person complained against) without their consent.
3. Chambers seeks to deal with complaints and grievances promptly, objectively and fairly.

### **Informal Procedure**

4. Any person who has a complaint about discrimination shall have access to someone who can give them sympathetic advice and, if necessary, counselling. This shall take place in an atmosphere of total confidentiality.
5. In order to assist in the effective resolution of grievances internally, Chambers shall nominate one senior and one junior Member to act as informal advisers to potential complainants, and to assist, when asked, in the informal resolution of grievances.

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### **Formal Procedures**

6. Chambers' employees are able to raise complaints through the new statutory grievance procedures which, together with statutory dismissal and disciplinary procedures, are an implied term of all contracts of employment in all Chambers regardless of size or number of employees.
7. Chambers shall in addition provide a formal grievance procedure, which shall include:
  - 7.1. The allocation of responsibility for investigating complaints to at least two members of Chambers, including one senior and one junior Member, each of whom shall be familiar with the Code of Conduct and the Equality and Diversity Code for the Bar. In the event of a conflict of interest, provision shall be made for the involvement of additional Members or other nominated persons;
  - 7.2. Names of Chambers' informal advisers;
  - 7.3. Undertakings that:
    - 7.3.1. Complainants will not be victimised or suffer detriment because of a complaint made in good faith; and
    - 7.3.2. All procedures will, as far as practicable, be confidential;
  - 7.4. A requirement for formal complaints to be made in writing;
  - 7.5. A time limit within which a written response should be delivered;
  - 7.6. The range of remedial actions where complaints are substantiated;
  - 7.7. An indication of opportunities for support and counselling provided by the associations and groups for women lawyers, members of minority ethnic groups, disabled people, lesbians or gay men, the Pupil Barristers' Group or the Mature Entrants' Group.
8. Confidential assistance may be sought from the Equal Opportunities Officers at the Bar Council.

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### **Complaints of Unfair Work Allocation**

9. By establishing regular monitoring and reviews of allocation of work, Chambers should reduce the need for formal complaints by providing a regular opportunity to identify and remedy problems. Complaints about the distribution of work from a pupil or tenant shall be allocated to the grievance procedure.

### **Complaints of Harassment**

10. See Section E above.

### **Remedies**

11. Where those appointed to investigate a complaint conclude that it is well-founded, the complaint and the findings of the investigation shall be reported to the Management Committee. Remedial action should be taken immediately, which may include all or some of the following:
  - 11.1. Re-evaluation of affected applications and where appropriate re-interview of affected applicants by a differently-constituted panel, where the complaint is from an unsuccessful applicant for pupillage, tenancy or a job;
  - 11.2. A change of practice (*e.g.* in relation to unfair work allocation);
  - 11.3. Implementation of a reasonable adjustment (in relation to a complaint from a disabled person);
  - 11.4. Further advice, briefing or training for the members of selection panels, Chambers clerks and staff;
  - 11.5. Advice and support to ensure that the complainant is not victimised as a consequence of making a complaint in good faith; and
  - 11.6. Disciplinary action.

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### **Records of complaints**

12. Chambers recognises that:

12.1. It may be required to explain how it investigated any complaint that is taken to the Bar Council or other external body; and

12.2. Analysis of complaints received is useful in identifying problem areas, training needs or scope for further action when Chambers review procedures.

Accordingly, Chambers shall maintain confidential records of all complaints and records of meetings. These records along with this Section of the Equality and Diversity Policy shall be reviewed annually to ensure that the procedures are working effectively.

### **Complaints Made to External Bodies**

13. Any individual (member of Chambers, pupil, employee or client) may complain about the conduct of an individual barrister to the Professional Conduct and Complaints Committee of the Bar Council, or to the Inn about a pupil supervisor.

14. Where an individual has a statutory complaint of unlawful discrimination, the complaint may be pursued through the employment tribunals or County Court as appropriate.

### **Section G: SERVICE PROVISION TO DISABLED CLIENTS**

1. 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.

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### **Definition of disability**

2. 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**

3. 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:
  - 3.1. Provision of information in alternative formats (e.g. large print, Braille etc);
  - 3.2. Paid leave for disabled employees of chambers;
  - 3.3. Provision of auxiliary aids *e.g.* induction loops;
  - 3.4. Provision of accessible conference room facilities;
  - 3.5. Provision of a reader or interpreter.

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

4. Staff or barristers with specific requirements should make requests to any member of the Management Committee 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 a Member nominated by the Management Committee will discuss viable alternatives with the applicant.

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5. The Management Committee 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**

6. 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 any of the clerks, who shall forward the request to the Management Committee where appropriate.

### **Cost of making reasonable adjustments**

7. In no circumstances will Chambers pass on the cost of a reasonable adjustment to a disabled person.

### **Monitoring and review**

8. This Section of the Equality and Diversity Policy shall be reviewed every two years by the Equality and Diversity Officer, who shall maintain a record of each review.