

LANDMARK CHAMBERS

EQUALITY, DIVERSITY AND INCLUSIVITY POLICY 2011

The Overriding Policy

- 1.1 Chambers is firmly committed to equal opportunities for all and to the avoidance of discrimination on the grounds of race, colour, ethnic or national origin, nationality, citizenship, gender, sexual orientation, age, marital status, disability, religion or political persuasion. Chambers is also committed to providing a working environment in which all individuals including members of Chambers, pupils, minipupils, employees and visitors are treated with dignity and respect. Chambers recognises that such a commitment requires positive steps be taken to identify and eliminate possible areas of discrimination.
- 1.2 It is therefore the policy of Chambers:-
- 1.2.1 to select pupils, tenants and employees;
 - 1.2.2 to treat pupils, tenants, employees, squatters, lay and professional clients, applicants for pupillage, tenancy or employment and anyone else who has occasion to have dealings with Chambers;
 - 1.2.3 to allocate work within Chambers;
 - 1.2.4 to accept instructions from and proffer advice to lay and professional clients
- without any distinctions by reference to race, colour, ethnic or national origin, nationality citizenship, sex, sexual orientation, political persuasion, marital status, age, religion or disability.
- 1.3 This Policy has been prepared after due consideration has been given to the legislative framework provided by Parliament, The Bar Code of Conduct and the more extensive Equality and Diversity Code provided by the Bar Council (see Appendix 1 to this Policy). Chambers has pledged to comply with the spirit of the Equality and Diversity Code and to continue to do so as the Code is amended from time to time.

Putting Our Policy into Effect

- 2.1 In order to oversee the implementation and compliance with this Policy, the Management Committee of Chambers has appointed and will maintain the appointment of a Diversity Committee consisting of 3 members of Chambers, two of whom will be tenants of 14 years call or more. The members of Chambers appointed to this Committee will be referred to as “Diversity Officers”. The Chambers Director will also be a member of the Diversity Committee and the Committee may also invite any other member of Chambers or employee to assist with or attend any meeting. The current members of the Diversity Committee are listed in Appendix 2.
- 2.2 The role of the Diversity Committee will involve the following functions, which will be exercised in accordance with the management structure of Chambers:-
- 2.2.1 developing and implementing Chambers equal opportunity policy and ensuring that all policies within Chambers are in accordance with the requirements of this Policy;
 - 2.2.2 providing or organising equal opportunities, training or briefing for members of Chambers and staff;
 - 2.2.3 advising the Pupillage Committee and the Chambers Management Committee on equal opportunities issues;
 - 2.2.4 advising individual members of Chambers or staff on equal opportunities issues;
 - 2.2.5 providing an informal route for the resolution of grievances arising out of equal opportunities issues;
 - 2.2.6 analysing the monitoring data from pupillage or staff recruitment exercises and ensuring that these analyses are brought to the attention of relevant members of Chambers and that any recommendations are acted upon.

Forms of Discriminatory Behaviour

- 3.1 A member of chambers, pupil, mini-pupil, member of staff, or visitor must not act in relation to anyone in a manner which directly or indirectly is either

discriminatory, consists of harassment or victimises that person.

- 3.2 **Direct discrimination;** Direct discrimination consists of treating such a person less favourably than others are or would be treated in the same or similar circumstances.
- 3.3 **Indirect discrimination;** Indirect discrimination occurs where four conditions are met:-
- 3.3.1 a requirement or condition is applied equally to all but a considerably smaller proportion of a relevant group than of the other persons to whom it applies can comply with it;
 - 3.3.2 the particular individual cannot comply with the requirement;
 - 3.3.3 it results in a detriment to them and
 - 3.3.4 the requirement cannot be shown to be objectively justifiable in spite of its discriminatory effect
- 3.4 **Harassment;** Harassment creates an intimidation or unpleasant working environment which may affect career advancement and thereby constitute discrimination. It is defined as unwelcome conduct which is offensive to the recipient in that it affects their dignity, where such conduct would not have occurred but for the collective qualities or characteristics of the recipient. Such conduct will be considered as harassment whatever the motive or intention of the perpetrator. It should never be assumed that because a similar remark or act did not appear to cause offence in the past that it is therefore per se inoffensive. Chambers recognises that harassment on grounds of sex or race may constitute unlawful direct discrimination. Harassment will not be permitted or condoned in Chambers.
- 3.5 **Victimisation;** Victimisation consists of less favourable treatment to those who have brought proceedings, or given evidence or information for the purposes of legal or disciplinary proceedings or made a complaint based upon an allegation of discrimination.

Monitoring of Work Distribution

- 4.1 The Chambers Director ensures that the clerks are trained to be fair in the distribution of work amongst all members of Chambers and pupils.

- 4.2 The clerks also monitor and review the distribution of work during Practice Reviews with members of Chambers.
- 4.3 Any complaints about the distribution of work are dealt with in accordance with the Chambers' grievance procedure.
- 4.4 Chambers will keep the need for any more formal system of monitoring under review.

Complaints/Grievance Procedure

- 5.1 Chambers is committed to responding sensitively to any concerns or complaints raised about harassment or victimisation in Chambers and to deal with such matters either informally or formally through the Chambers grievance procedure. Other means of redress and forms of assistance are set out in the Equality Code for the Bar and are detailed on the Bar Council website at www.barcouncil.org.uk.
- 5.2 Any concern or complaint about harassment or victimisation should be raised in the first instance with one of the Diversity Officers who will advise and assist the complainant in relation to the most appropriate procedure in the circumstances. All such complaints will be dealt with in a sensitive manner and, as far as possible, on a confidential basis.
- 5.3 A person who believes that he or she has suffered discrimination in breach of any of the provisions of this Equality Code, Paragraph 204 of the Code of Conduct, the Race Relations Act 1975, the Sex Discrimination Act 1976 or the Disability Discrimination Act 1995 is invited to raise the matter informally with one of the Diversity Officers or through the Chambers' grievance procedure.
- 5.4 The Diversity Committee will be responsible for administering the grievance procedure.
- 5.5 This grievance procedure is not intended to be used to resolve disputes about the administration of Chambers nor to deal with complaints from solicitors, clients or members of the public for whom a Chambers Complaints Resolution

Procedure is already in place.

- 5.1 All Chambers' employees have contracts of employment containing details of the Disciplinary and Grievance Procedures in place in relation to their employment.

Equality Training and Promotion of Policy

- 6.1 It will be the responsibility of the Diversity Officers to ensure that all Clerks and all Members of Chambers are both aware of and continue to comply with the Chambers Equality Policy and are kept up to date with any amendments which are made to it.
- 6.2 The Chief Executive will arrange for Equal Opportunities Training for all staff and members of Chambers as prioritised by the Chambers Management Committee. Refresher training will be carried out as appropriate.
- 6.3 Knowledge of our Equality Policy outside Chambers will be achieved by including a statement of our policy on appropriate promotional material, and by such other means as may be appropriate, such as through the Chambers website.
- 6.4 Detailed information regarding the effectiveness of Chambers Equality Policy may be provided to appropriate third parties as approved by the Diversity Committee. Chambers is happy to provide this information on a strictly confidential and non-person specific basis. This information will also form part of an annual review process.

Disability Discrimination

- 7.1 Chambers is committed to providing reasonable adjustments in relation to the recruitment of members, staff and pupils and the provision of legal services and is also committed to responding appropriately to requests for reasonable adjustments.
- 7.2 In accordance with Chambers Equality Policy, the premises are designed to be an effective work place for the disabled as well as the able-bodied. The building has disabled access, toilets, lifts and doorways of sufficient width to accommodate normal and emergency wheelchair usage of the building.

APPENDIX 1

1. Code of Conduct of the Bar of England and Wales - Key

Provisions

Para 305.1

"A barrister must not in relation to any other person (including a client or another barrister or a pupil or a student member of an Inn of Court) discriminate directly or indirectly or victimise because of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, religion or political persuasion."

Para 305.2

"A barrister must not in relation to any offer of a pupillage or tenancy discriminate directly or indirectly against a person on grounds of age, save where such discrimination can be shown to be objectively and reasonably justifiable."

Para 305.3

"In respect of indirect discrimination, there is no breach of paragraph 305.1 and 305.2 if the barrister against whom the complaint is brought proves that the act of indirect discrimination was committed without any intention of treating the claimant unfavourably on any ground in that paragraph to which the complaint relates."

Paragraph 901 of the Code of Conduct

This states that any failure to comply with the code shall constitute professional misconduct rendering a barrister liable to disciplinary proceedings.

Paragraph 403.2.c (iii) of the Code of Conduct

This provides that barristers in independent practice must have regard to the Equality Code for the Bar. The final version of that Equality Code was adopted by the Bar Council in September 1995 and is now summarised in Annexe 0 of the Code of Conduct (see Appendix 2 to this Policy).

2. Equality Code for the Bar - Key Provisions

Chambers has had careful regard to the Equality Code of the Bar and has adopted the mandatory and essential recommendations. In particular, Chambers recognises that discrimination can be direct or indirect and may involve harassment, stereotyping and victimisation as set out in chapter 4 of the Equality Code of the Bar.

Whilst a breach of the Equality Code for the Bar per se is not professional misconduct, the Equality Code provides an evidential standard against which allegations of discrimination may be judged.

The Equality Code for the Bar was first adopted by the Bar Council in September 1995. It sets out the Bar Councils policy on equal opportunities, describes the legislative and regulatory framework, and gives detailed guidance on the policies and practice to be followed by sets of barristers regulated under the Code of Conduct. The Equality Code is organised into seven main sections as follows:

Section 1 - Regulatory and Legislative Framework

This section describes the requirements of the principal pieces of legislation and the relevant sections of the Code of Conduct of the Bar Council, in particular paragraphs 204 (prevention of direct or indirect discrimination), and 303 (regard for the Equality Code).

Section 2 - Unlawful and prohibited discrimination

This section defines and illustrates unlawful direct discrimination, indirect discrimination, and prohibited discrimination.

Section 3 - Guidance on Harassment

This section defines various categories of harassment and provides advice on procedures for dealing with allegations and instances of harassment.

Section 4 - Fair selection of pupils and tenants

This section details the processes that should be followed to ensure that the selection of pupils and tenants is fair.

Section 5 - Equality of Opportunity

This section details the commitments, procedures, training and guidelines that are required to ensure compliance with the Code in respect of equality of opportunity.

Section 6 - Monitoring

This section details the monitoring of procedures and outcomes that is required to ensure that equal opportunities policies and procedures are effective.

Section 7 – Complaints

This section describes the grievance and complaints procedures that are required to cover allegations of discrimination and harassment, and complaints about the selection of trainees, members or staff.

3. Race Relations Act 1976 and Sex Discrimination Act 1975 - Key Provisions

The Race Relations Act 1976, section 26A and the Sex Discrimination Act 1975, section 35A, as enacted by the Courts and Legal Services Act 1990, section 64, now contain similar provisions to the following effect:

“(1) It is unlawful for a barrister or a barrister’s clerk, in relation to any offer of pupillage or tenancy to discriminate against a person, on grounds of race or sex:

- (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
- (b) in respect of any terms on which it is offered; or
- (c) by refusing or deliberately omitting to offer it to him or her

(2) It is unlawful for a barrister or a barrister’s clerk in relation to a pupil or tenant in the chambers in question to discriminate against him or her, on grounds of race or sex

- (a) in respect of any terms applicable to him or her as a pupil or tenant
- (b) in the opportunities for training or gaining experience which are afforded or denied to him or her;
- (c) in the benefits facilities or services which are afforded or denied to him or her ;
- (d) by terminating his or her pupillage or by subjecting him or her to any pressure to leave chambers or other detriment.

(3) It is unlawful for any person in relation to giving or withholding or acceptance of instructions to a barrister to discriminate against any person on grounds of sex or race.

Individuals may bring complaints that they have suffered discrimination which is unlawful by reason of these provisions, by way of proceedings in the county court, within 6 months of the alleged act of discrimination.

4. The Disability Discrimination Act 1995 - Key Provisions

There are four main contexts in which discrimination is unlawful:-

- (a) The refusal or deliberate non-provision of services;
- (b) The failure to make adjustments under Section 21;
- (c) Discrimination in service standards/manner of provision;
- (d) Discrimination in the terms on which service is provided.

A person is a “provider of services” if he is concerned with the provision, in the United Kingdom, of services to the public or to a section of the public. The provision of services includes the provision of any goods or facilities. Whether or not such services are provided for payment is irrelevant. The fundamental theme is that everyone should be able to benefit from the services provided at the site in question - the theme is not whether any particular wheelchair will or will not go through a particular door.

There are the following two types of discrimination.

- (a) Less favourable treatment
 - (b) Failure to comply with the Section 21 duty to make adjustments
- The four elements of ‘disability’ are thus:

- a physical or mental impairment
- the impairment must have an effect on the ability of the individual to carry out normal day-to-day activities
- the effect must be adverse and substantial
- the substantial adverse effect must be long-term

Treatment is justified only if

- (a) *“in the opinion of the provider of services, one or more of [certain specified] conditions ... are satisfied; and*
- (b) *it is reasonable, in all the circumstances of the case for him to hold that opinion ”*

The relevant conditions are:-

- (a) When the treatment is necessary not to endanger health or safety
- (b) When the treatment is necessary because the disabled person is unable to understand the nature of the agreement or give an informed consent
- (c) When the treatment is necessary to enable services to be provided at all
- (d) Where the treatment in relation to standards or terms is necessary to enable the service to be provided
- (e) When treatment in the form of the greater cost of providing services is necessary in order to provide the service

The DDA 1995 requires, in certain circumstances, positive action which is reasonable and readily achievable to overcome the barriers that impede disabled people's access. There are three forms of duty imposed under the Act. These duties, which are disjunctive rather than sequential, are as follows:-

- (a) A duty to change practices, policies and procedures which make it impossible or unreasonably difficult for disabled people to make use of its services;
- (b) A duty to change physical features. The Act requires service providers either to remove the feature, or alter it so that it no longer has that effect, or provide a reasonable means of avoiding it, or provide a reasonable alternative method of making the service in question available to disabled persons.
- (c) A duty to provide an auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of its services.

APPENDIX 2

Diversity Officers 2011

Members of Chambers

Katharine

Holland QC

Sasha White

David Blundell

Staff

Chambers Director