

### **3 VERULAM BUILDINGS**

#### **CHAMBERS' EQUALITY AND DIVERSITY POLICY AND ACTION PLAN**

At a Chambers' Meeting on 11<sup>th</sup> December 2013, this document was adopted as Annex 13 to the 3 Verulam Buildings Chambers' Constitution.

#### **Preamble**

1. This policy applies to all members of Chambers, pupils, clerks, employees, or any other person temporarily in Chambers (such as a mini-pupil).
2. Chambers is committed to the promotion and application of equal opportunities, in accordance with The Code of Conduct of the Bar of England and Wales including the new equality and diversity provisions which came into force in September 2012 ("the Code"), statute and statutory regulation.
3. In particular, in the selection of tenants, pupils and staff and in the operation of Chambers generally, no member of Chambers or employee shall act in a manner which is directly or indirectly discriminatory on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender reassignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief or pregnancy and maternity. Discrimination includes victimisation, harassment and the use of discriminatory language.
4. Similarly, a barrister must not, in his or her professional practice, discriminate improperly against, victimise or harass any other person on the grounds set out in paragraph 3 above.
5. Where a member of Chambers, pupil or employee is disabled there is a duty upon Chambers under the Equality Act 2010 to consider a reasonable adjustment to Chambers' policy. A request for a reasonable adjustment should be made to one of the Equality and Diversity Officers in accordance with Chambers' Reasonable Adjustments Policy.
6. Chambers will adopt and implement the following Action Plan in accordance with this policy.

#### **Action Plan**

7. Two members of Chambers shall be designated as being responsible for monitoring implementation of this Equality and Diversity Policy; namely the Equality and Diversity Officers ("the E&D Officers"). One E&D Officer will sit on the Management Committee ("the management E&D Officer"), and the other will have particular responsibility for matters relating to pupils and the selection of tenants from pupils ("the pupillage E&D Officer"). In particular, there will be monitoring of the recruitment of tenants, pupils and staff, of the distribution of work to pupils and tenants, and of the extent to which Chambers is safe and accessible to disabled people.

The names of the E&D Officers from time to time will be available on the Chambers' intranet.

8. In respect of matters relating to pupils and the selection of tenants from pupils, the pupillage E&D Officer will report to the Head of the Pupillage Committee and the Head of the Equality and Diversity Committee. In respect of all other matters, the E&D Officers will report to the Head of the Management Committee and the Head of the Equality and Diversity Committee.
9. This policy, along with Chambers' Parental Leave and Flexible Working Policy, Reasonable Adjustment Policy, Harassment Policy and Diversity Data Policy will be reviewed regularly and at least every 2 years and will be amended in accordance with developments in the Code, statutes and statutory regulation.
10. The E&D Officers will be responsible for ensuring the implementation of this Action Plan and that the policies are reviewed in accordance with paragraph 9 above, and made available on Chambers' intranet.
11. The E&D Officers will ensure that the policies referred to in paragraph 9 above will be available on Chambers' Intranet by [ ] and that they shall be circulated to all members of Chambers, staff, pupils and clerks. The E&D Officers will also ensure that any amended policies in accordance with paragraph 9 above are made available on Chambers' intranet.
12. The E&D Officers will ensure that equality and diversity training is provided as set out in the Code. The E&D Officers will report to the Equality and Diversity Committee on the progress of this training.
13. It is the responsibility of the Senior Practice Manager to ensure that all practice managers are aware of the provisions of the policies referred to in paragraph 9 above. Any queries concerning these policies should be raised with the E&D Officers.
14. The Equality and Diversity Committee will be responsible for monitoring the operation of this policy in accordance with paragraph 24 below.
15. The E&D Officers will ensure that the selection procedure for pupils shall be included in the materials sent to prospective applicants for pupillage.
16. The E&D Officers will also be responsible for the diversity monitoring forms in accordance with paragraphs 37 and 53 below.
17. The Pupillage Committee will make and retain for a period of not less than two years, records of candidates for pupillage who have been rejected and the reasons for rejection and shall prepare annual statistics by reference to gender, race, disability and age of the number of persons applying, being shortlisted and being selected for tenancy, which shall be provided to the E&D Officers.
18. In accordance with paragraph 53 below, all prospective candidates for positions as staff at Chambers will be required to complete forms for the monitoring of gender,

ethnic origin, disability and age. The completed forms will be passed to the E&D Officers for review.

19. Chambers shall make and shall retain for a period of not less than two years, records of candidates who have been rejected and the reasons for rejection and shall prepare the annual statistics by reference to gender, race, disability and age of the number of persons applying, being shortlisted and being recruited which shall be provided to the E&D Officers. Chambers and/or the Pupillage Committee will arrange regular feedback sessions (at least every 3 months) for working pupils (i.e. pupils in their second six months or later), and working pupils shall be provided in advance of such meeting with an analysis of the work done, the type of work, fees earned and received and the solicitors instructing.
20. Chambers will arrange regular (usually annually) practice development meetings with the Senior Practice Manager for tenants, and each tenant shall be provided, in advance of such meeting, with an analysis of the amount of work done, the type of work, fees earned and received and solicitors instructing.
21. The analysis referred to in paragraphs 59 & 60 below shall be monitored by the Head of the Equality and Diversity Committee and the Senior Practice Manager for the purposes of monitoring the distribution of work in Chambers and solicitors' briefing practices. The Head of the Equality and Diversity Committee shall meet with the Senior Practice Manager on a regular basis for this purpose (at least every six months).
22. The Head of the Equality and Diversity Committee and the Senior Practice Manager will also periodically review the data collected by the system set out in paragraph 64 below to assess whether or not discrimination may be occurring. In respect of tenants, monitoring will take place at least every six months. In respect of working pupils, it will take place at least every three months. In the event of material anomalies occurring without good reason, the Head of the Equality and Diversity Committee will report to the Head of the Pupillage Committee (in respect of working pupils) or to the Head of the Management Committee or Head of Chambers (in respect of tenants) who shall take whatever steps they consider appropriate to address the situation.

### **Statutory and regulatory framework**

23. The matrix of statutory and non-statutory provisions against which this Policy is adopted are set out in the guidance to the Code. Attention is drawn in particular to:

paragraph 305 of the Code, which prohibits discrimination on the grounds set out in paragraph 3 above, directly or indirectly, in relation to any other person including a lay or professional client, another barrister, a pupil or student member of an Inn of Court.

### **Monitoring the operation of the Equal Opportunities Policy**

24. Chambers will regularly review:

- (i) the number and percentages of staff, barristers, pupils and assessed mini-pupils from different groups;
- (ii) applications for mini-pupillage, pupillage, staff and membership of Chambers;
- (iii) the allocation of unassigned work.

This review will include:

- (i) collecting and analysing data broken down by race, disability and gender;
- (ii) investigating the reasons for any disparities in that data; and
- (iii) taking appropriate or remedial action.

### **Training**

25. From 1 January 2013, Chambers will ensure that 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 (it may be the same person) will have received recent and appropriate training in fair recruitment and selection processes, except in unforeseen and exceptional circumstances.
26. From 1 July 2014, save in exceptional circumstances, Chambers will ensure that every member of all selection panels involved in the recruitment of tenants, pupils, clerks and assess mini-pupils will be trained in fair recruitment and selection processes.

### **Recruitment: general**

27. Chambers' recruitment and selection of its pupils, tenants and staff shall be open and shall use objective and fair criteria.
28. In all matters of recruitment, selection and monitoring, Chambers shall have regard to the Code.
29. Subject to the specific exceptions referred to below, Chambers' policy is to advertise for all vacancies. Chambers shall have regard to the Code in the formulation of such advertisements.
30. All members of Chambers and other individuals involved in the short-listing, interviewing and/or selection of pupils, tenants or staff should be familiar with this policy, the Code, and all applicable procedures and selection criteria.
31. Chambers' policy is for its selection processes and criteria to be:
  - transparent;
  - not subject to change during the selection process;

- based on objective and explicit criteria which relate to the demands and requirements of the work;
- applied equally, with individuals being judged on their merits;
- free at all stages from assumptions based on stereotypical views or expectations of the behaviour and characteristics of any particular group;
- not subject to the unexplained veto of one person alone, but reflecting the views of the relevant selection panel or Chambers' meeting as the case may be.

### **Recruitment: pupils and tenants**

#### *(i) Mini-pupils*

32. Chambers is unable to offer mini-pupillages to all who apply. Chambers will endeavour to organise its mini-pupillages in such a way as to ensure equality of opportunity, so far as is practicable, and by reference to objective criteria.

#### *(ii) Selection of pupils*

33. Pupillage vacancies shall be advertised on the website designated by the Bar Council from time to time, and elsewhere as widely as reasonably practicable (save in the exceptional circumstances prescribed in paragraph 5 of the Pupillage Funding and Advertising Requirements 2003, Annex R to the Code of Conduct).
34. Members of Chambers shall not make private arrangements to take pupils.
35. All candidates for pupillage must be assessed, and all pupils selected, under written, objective and explicit selection criteria, to be determined by the Pupillage Committee in compliance with the Code ("the selection procedure").
36. The selection procedure shall be referred to in the materials sent to prospective applicants for pupillage, and shall be made available to all candidates for pupillage.
37. All applicants for pupillage will be requested to complete forms for the monitoring of gender, ethnic origin, disability and age. The completed forms will be passed to the E&D Officers for review. The data on the forms will not be made available to the selectors.
38. Shortlisting for interview shall be carried out by at least two members of the Pupillage Committee and by reference to the selection criteria.
39. Pupillage interviews shall be planned in advance and structured to ensure that each candidate may demonstrate his or her abilities and qualities by reference to each selection criterion. The Pupillage Committee shall ensure that the structure and operation of the interview process will conform with the requirements of the Code.

40. References shall be used only as a final check on the selected applicants. Referees will be asked to provide references strictly in accordance with the selection criteria and to provide an objective assessment of the applicant.

41. The Pupillage Committee will make, and retain for a period of not less than 2 years, records of candidates for pupillage who have been rejected, and the reasons for rejection, and shall prepare annual statistics by reference to gender, race, disability and age of the number of persons applying, being short-listed and being selected for tenancy, which shall be provided to the E&D Officers.

*(iii) Recruitment of starter tenants from pupils*

42. All pupils who are candidates for tenancy will be informed at the beginning of their pupillage as to: (a) when Chambers will identify vacancies for starter tenants (usually in July of each year); (b) how the pupils will be assessed for any vacancies identified.

43. The Pupillage Committee will be responsible for the assessment of the pupils throughout their pupillage, and will assess each pupil who is a candidate for tenancy from a wide range of sources by reference to relevant criteria. Such sources will normally include records of any formal assessments of pupils conducted during their pupillage, assessments by barristers for whom the candidates have carried out work, including but not confined to pupil supervisors, and feedback from instructing solicitors by whom candidates have been instructed.

44. Chambers' policy is to aim to identify the ability and potential of its pupils with objectivity, filtering out insofar as possible the subjective loyalties and favouritisms which may be felt by individual members of Chambers (in particular pupil supervisors) to particular pupils and the converse, such as subjective dislikes based on personal prejudice, whether conscious or unwitting.

45. The suitability of each pupil for tenancy shall be formally assessed in a meeting of the Pupillage Committee which shall then report and make its recommendations to Chambers at or prior to the Chambers' meeting referred to in the paragraph below.

46. All new tenants shall be elected by Chambers in a Chambers' meeting (usually to be held in July) in accordance with the procedure set out in the Chambers' constitution.

*(iv) Recruitment of starter tenants other than from Chambers' pupils*

47. Chambers will generally seek to recruit "starter tenants" from its own pupils. "Starter tenants" are persons who have not previously practiced at the bar otherwise than as second (or subsequent) six-month pupils. Insofar as Chambers does not recruit from its own pupils for starter tenancies, vacancies for starter tenancies shall be advertised, except (where appropriate) in circumstances described in the Code and its accompanying guidance.

48. The selection of such tenants shall be made in accordance with the requirements and guidance of the Code. All new tenants shall be elected in accordance with paragraph 46 above.

(iv) *Established Practitioners*

49. The recruitment of established practitioners from other Chambers for tenancy in these Chambers shall be conducted in accordance with the requirements and guidelines set out in the Code and with the requirements and guidelines of any policy on the recruitment of established practitioners which Chambers may from time to time adopt. All new tenants shall be elected in accordance with paragraph 46 above.

**Recruitment: Fair Selection of Staff**

50. All vacancies for staff shall be advertised, save where, by analogy with the principles in the Code for the recruitment of existing practitioners, it might be appropriate not to require advertisement.
51. The existence of this policy shall be referred to in the material sent to all prospective candidates.
52. Where Chambers uses an employment or recruitment agency it shall ensure that this policy is included in the instructions given to the agency; in such circumstances the agency will arrange for the vacancy to be appropriately advertised.
53. All prospective candidates will be required to complete forms for the monitoring of gender, ethnic origin, disability and age. The completed forms will be passed to the E&D Officers for review. The data on the forms should not be made available to the members or staff (if any) who are involved in the selection process.
54. Short listing of applicants shall be carried out by more than one person and by reference to relevant selection criteria which shall be determined in advance of the recruitment process.
55. The selection process shall be carried out in accordance with the requirements of the Code.
56. Interviews of candidates shall be carried out in accordance with the requirements of the Code.
57. Chambers shall make, and shall retain for a period of not less than 2 years, records of candidates who have been rejected and the reasons for rejection, and shall prepare annual statistics by reference to gender, race, disability and age of the number of persons applying, being short-listed and being recruited, which shall be provided to the E&D Officers.

**Practice Development**

58. Chambers is committed to ensuring that pupils and members are afforded the opportunity to develop their practices in a fair and equal manner. Members of chambers are encouraged to discuss career development with the Senior Practice Manager and in particular to express views (if any) on the past allocation of work and preferences for the development of their practices.

59. Chambers and/or the Pupillage Committee will arrange regular feedback sessions (at least once every 3 months) for working pupils (i.e. pupils in their second six months or later), and working pupils shall be provided, in advance of such meeting, with an analysis of the amount of work done, the type of work, fees earned and received, and solicitors instructing.
60. Chambers will arrange regular (usually annual) practice development meetings with the Senior Practice Manager for tenants, and each tenant shall be provided, in advance of such meeting, with an analysis of the amount of work done, the type of work, fees earned and received, and solicitors instructing.

### **Allocation of work in Chambers**

61. Chambers is committed to conducting its affairs 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. Chambers shall ensure that the practice managers are fully briefed on the need to distribute work in a fair and non-discriminatory manner, and the practice managers involved in the distribution and monitoring of work allocation shall, insofar as practicable, be provided with equality and diversity training.
62. The analyses referred to in paragraphs 59 & 60 above shall be monitored by the Head of the Equality and Diversity Committee and the Senior Practice Manager for the purposes of monitoring the distribution of work in chambers and solicitors' briefing practices. The Head of the Equality and Diversity Committee shall meet with the Senior Practice Manager on a regular basis for this purpose (at least every 6 months).
63. If such analyses disclose that any solicitors or other instructing organisations exhibit briefing practices which tend to favour a particular group and/or disadvantage a particular group, this will be referred to and (if possible) addressed by the practice managers. If the issue cannot be resolved via the practice managers, it shall be addressed as between the Head of Chambers and the solicitor(s)/instructing organisation(s) involved.
64. The distribution of unassigned work to tenants and working pupils will be systematically monitored as follows:
  - 64.1 Unassigned work comprises all work that comes into chambers by any means that needs allocation to a barrister.
  - 64.2 In respect of each piece of unassigned work which is allocated to a barrister, the practice managers will record the following: (a) whether the work was advocacy, written advice or both; (b) the fees earned; and (c) the main reason for the choice of barrister (e.g. availability, experience or practice development opportunity) and (d) who was responsible for allocating the unassigned work.
  - 64.3 The Head of the Equality and Diversity Committee and the Senior Practice Manager will periodically review the data collected by this system to assess whether or not discrimination may be occurring. In respect of tenants,

monitoring will take place at least every 6 months. In respect of working pupils it will take place at least every 3 months. In the event of material anomalies occurring without good reason, Head of the Equality and Diversity Committee will report to the Head of the Pupillage Committee (in respect of working pupils) or to the Head of the Management Committee and/or Head of Chambers (in respect of tenants), who shall take whatever steps they consider appropriate to address the situation.

- 64.4 If any working pupil has concerns over the way work has been distributed he or she should raise the matter with his pupil supervisor or with the Head of the Pupillage Committee. In the event the matter is not satisfactorily resolved, Chambers' complaints procedure is available.
65. Chambers' practice managers must not under any circumstances accede to unlawful discriminatory instructions from solicitors or other professional clients. Any solicitor/professional client who insists on a directly discriminatory allocation of work should be reported to his or her professional disciplinary body, and the work should be refused.
66. In the event of any complaint or concern expressed by any member of chambers as to the distribution of work (other than a working pupil, as to which see paragraph 64.4 above), the Head of Chambers (or a designated senior member of chambers) shall, for a set period of time to be determined by the Head of Chambers, conduct a detailed monitoring of such distribution, and take such steps as the Head of Chambers considers appropriate to address the complaint or concern. In the event the matter is not satisfactorily resolved, Chambers' complaints procedure is available.

### **Marketing of barristers and pupils**

67. Insofar as practicable, all Chambers' marketing material, including the Chambers website, will make reference to this policy.
68. Chambers' marketing strategies will seek to ensure, insofar as practicable, that barristers and working pupils are marketed on an equal opportunities and non-discriminatory basis. Marketing and networking activities must be organised, insofar as practicable, to ensure that over time all working pupils and tenants are equally involved.
69. All pupils and members of chambers are encouraged to take part in Chambers' in-house and external seminars and lectures, to write or contribute to articles in professional publications, to become involved in professional organisations connected with their area(s) of work and to become involved with legal advice or support centres/organisations.
70. Chambers shall endeavour to hold regular Practice Group Meetings within chambers, which members of chambers and working pupils are encouraged to attend as a means of discussing individual and Chambers' issues and a means of integrating pupils and members of Chambers.

### **Maternity, Paternity and Parental Leave**

71. Chambers maintains a policy setting out Chambers' policy on parental leave and flexible working in compliance with the requirements of the Code. The Parental Leave and Flexible Working Policy was adopted by Chambers at a Chambers' meeting held on [ ].

### **Harassment**

72. Chambers maintains a Harassment Policy in compliance with the requirements of the Code. The Harassment Policy was adopted by Chambers at a Chambers' meeting held on [ ].

### **Complaints and Grievances**

73. Any individual who has a concern or complaint regarding this policy should raise his or her complaint with the Chambers' Equality and Diversity Officers in the first instance.
74. Any complaints that are not resolved to the satisfaction of the individual in accordance with paragraph 73 above, the individual may elect for his/her complaint to be dealt with in accordance with Chambers' complaints procedure.