

SERJEANTS' INN CHAMBERS
EQUALITY AND DIVERSITY POLICY

In effect from:	June 2014
Review Date:	June 2016

Introduction

1. Serjeants' Inn Chambers is a modern set of chambers firmly committed to the active promotion of equality and diversity and to ensuring, at all relevant times, an absence of direct or indirect discrimination on grounds of race (including colour, nationality, citizenship and ethnic or national origins), sex, pregnancy and maternity, disability, sexual orientation, marriage and civil partnership, religion or belief, gender reassignment, age, or any other protected characteristic.
2. Chambers will not in relation to any offer of a position in Chambers of whatever kind discriminate directly or indirectly against any person on grounds of age, save where such discrimination can be shown to be objectively and reasonably justifiable.
3. Chambers' aim is to provide a working environment and culture which values and recognises difference and tackles discrimination pro-actively in order to ensure no individual or group is discriminated against.
4. Chambers will not tolerate harassment or victimisation of, or by, any member of its organisation.
5. Chambers recognises that such a commitment requires that positive steps be taken to identify and eliminate possible areas of discrimination so as to ensure equality of access to

all applicants, equality of treatment to all tenants, staff, pupils, squatters, door tenants, mini-pupils and those on work experience in Chambers (“Chambers’ personnel”) and equality of service to both professional and lay clients.

6. This Equality and Diversity Policy reflects Chambers’ aim that every individual should be accorded equal dignity and respect and be judged on merit and ability alone, free from judgements or treatment based on prejudice or assumptions of collective characteristics. To this end, it provides a framework for the promotion of equality and diversity and the internal resolution of complaints involving any of Chambers’ personnel.
7. The Policy also reflects and borrows from the legislative framework provided by Parliament and the obligations upon Chambers and its members imposed by Section D1.2 of the Bar Standards Board Code of Conduct and the Bar Standard Board Handbook Equality Rules.

Circulation

8. This Policy will be made available to all tenants, staff, pupils and squatters by its placement on the Chambers intranet, to door tenants upon their appointment and to mini-pupils and those on work experience at the commencement of their placements.

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A. Defining Discrimination, Victimisation and Harassment

The Protected Characteristics:-

9. The Equality Act 2010 prohibits discrimination on the following grounds (referred to in the legislation as “the protected characteristics”):

- (a) **Race:** includes nationality, colour and ethnic or national origins.
- (b) **Sex:** protects both men and women from discrimination on grounds of sex.
- (c) **Marriage and civil partnership:** covers anyone who is married or who is a civil partner.
- (d) **Pregnancy and maternity:** covers anyone who is pregnant or taking a period of maternity leave to look after a child.
- (e) **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 bi-polar disorder. It covers severe disfigurement, progressive conditions and recurring impairments. 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.
- (f) **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.
- (g) **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.
- (h) **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.
- (i) **Age:** covers particular ages and also age ranges.

Direct Discrimination

- 10. 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.
- 11. Direct discrimination cannot be justified except in respect of age, where A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.

12. 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

13. 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.

Indirect Discrimination

14. Indirect discrimination occurs where an apparently neutral provision, criterion or practice has, or would have, a disadvantageous impact upon a particular group with a protected characteristic compared with others who lack that characteristic.
15. The provision, criterion or practice can be justified if it is a proportionate means of achieving a legitimate aim.

Harassment

16. 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.
17. Such conduct will be considered 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 offense in the past that it is therefore per se inoffensive.
18. A single incident may constitute harassment if it is sufficiently serious.
19. Harassment creates an intimidating or unpleasant working environment, which may affect career advancement and thereby constitute discrimination.

Victimisation

20. 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:
- (a) reporting an act or acts of discrimination to the Bar Standards Board;
 - (b) giving evidence in proceedings relating to an act or acts of discrimination;
 - (c) bringing proceedings relating to an act or acts of discrimination;
 - (d) making an allegation of discrimination;
 - (e) doing any other thing for the purposes of, or in connection with, equality legislation.

Duties of Chambers' Personnel

21. It is a Core regulatory duty of every barrister not to discriminate unlawfully against any person: see CD8 in the Code of Conduct.
22. The Core Duty is supplemented by rC12 which expands and clarifies it as follows:
- "You must not discriminate unlawfully against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender reassignment, sexual orientation, marital or civil partnership status, disability, age, pregnancy and maternity, religion or belief".*
23. This fundamental equality principle is drafted to accord with the provisions of the Equality Act 2010, which has specific provisions applying to barristers (s.47).
24. The requirement not to discriminate applies to a barrister in all aspects of his or her professional life. The requirement not to discriminate applies to a barrister's relationship with "any other person" in the course of his/her professional dealings. These will include:
- Clerks and other chambers' staff
 - Clients
 - Court staff
 - Instructing solicitors and their staff

- Judges
 - Other barristers
 - Pupils
 - Squatters
 - Mini-pupils and others undertaking work experience in chambers.
25. Compliance with these duties is the individual responsibility of not only tenants but also all other members of Chambers' personnel.
26. Adherence is required to
- (a) this Equality and Diversity Policy;
 - (b) the Parental Leave and Flexible Working Policy;
 - (c) the Reasonable Adjustments Policy;
 - (d) the Harassment and Victimisation Policy;
 - (e) the Pupillage Recruitment Assessment Criteria;
 - (f) the Tenancy Recruitment Assessment Criteria;
 - (g) the Workforce Diversity Data Collection and Publication Policy.
27. Every barrister has a duty to report serious misconduct to the Bar Standards Board under rC66 of the Code of Conduct. This may include unlawful discrimination, victimisation or harassment if serious.

C. Recruitment and Selection

28. It is extremely important, given the nature of entry into the profession, that selection for pupillage and tenancy should be against objective criteria and free from discrimination.
29. Recruitment of staff should also be against objective criteria for the role in question and free from discrimination.
30. Chambers undertakes that recruitment of pupils and tenants shall:

- (a) be based upon objective and explicit criteria which
 - (i) are available to all upon request (currently the Pupillage Recruitment Assessment Criteria (2014) and the Tenancy Recruitment Assessment Criteria (2014));
 - (ii) will not be subject to change during the selection process;
 - (iii) save in exceptional circumstances, will be applied equally to all potential recruits;
- (b) be undertaken by tenants who have undertaken training in fair recruitment and selection within the previous three years;
- (c) be free, at all stages, from assumptions based on stereotypical views or expectations of the behaviour and characteristics of any particular group;
- (d) not be subject to the will or unexplained veto of one person alone, but instead will accord with criteria which reflect the views of a broad spectrum of tenants in chambers.

31. Chambers undertakes that recruitment of staff shall:

- (a) be based upon objective and explicit criteria which
 - (i) are applicable to the role in question;
 - (ii) will not be subject to change during the selection process;
 - (iii) save in exceptional circumstances, will be applied equally to all potential recruits;
- (b) be undertaken by tenants and/or staff who have undertaken training in fair recruitment and selection within the previous three years;
- (c) be free, at all stages, from assumptions based on stereotypical views or expectations of the behaviour and characteristics of any particular group;

32. No applicant for a position in Chambers of whatever kind shall suffer discrimination:

- (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 by a refusal or deliberate omission, to offer it to him/her.
33. Furthermore, no person appointed to a position in Chambers of whatever kind shall suffer discrimination:
- (a) in respect of any terms applicable to him/her as holder of that position;
 - (b) in the opportunities for training or gaining experience which are afforded or denied to him/her;
 - (c) in the benefits, facilities or services which are afforded or denied to him/her;
 - (d) in the case of a tenant or pupil, in the volume or type of work which is offered or denied to him/her;
 - (e) by termination of his/her appointment or by subjecting him/her to any pressure to leave Chambers or other detriment.

D. Fair Access to Work and the Allocation of Unassigned Work

34. Distribution of work to all members of chambers, working pupils and squatters must be carried out in a manner that is fair to all and without discrimination.
35. When contacted by solicitors or another instructing organisation regarding a request for counsel for unassigned work (i.e. where the solicitor does not request a single named barrister), or where counsel requested is unable to accept the work offered, or where another barrister is seeking an unnamed junior or leader, a member of the clerking team will ask relevant questions required to obtain an overview of the case in order to suggest suitable candidates for the work offered.
36. All Members of Chambers who are considered suitable on grounds of experience, seniority, cost and availability will be proposed for the work offered.

37. Clerks will use their best endeavours to ensure, where possible, that instructions and briefs are not delivered late by solicitors at such times as to preclude those with childcare and other dependent care commitments or those with disabilities 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 will be given to whether it can be forwarded electronically, for example by scanning and emailing it.
38. Clerks will use their best endeavours to actively rotate briefs and instructions to ensure that pupils in their second-six receive a fair range of different types of work from different solicitors.
39. All clerks involved in the distribution of work will be provided with equality and diversity training.
40. Section 47(6) of the 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. Clerks will deal with any request that is potentially discriminatory (for example requests from solicitors for a barrister of a particular sex or race for a particular piece of work) politely but firmly. 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.
41. 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.

42. All clerks and other members of staff concerned in any way in the allocation of work in Chambers shall comply with this policy and such requirements for data entry in relation to unassigned work as is specified in instructions from the Senior Clerk and/or Business Director from time to time. Failure to do so could result in the implementation of disciplinary procedures including, where appropriate, suspension or dismissal.

E. Equality Monitoring and Review

43. Chambers recognises the need to collate, monitor and review diversity data in order to ensure that Chambers may best fulfil its commitment to equality and diversity.

44. Chambers will at all times maintain and implement a Diversity Data Policy and an Equality and Diversity Action Plan.

45. In seeking to identify and eliminate sources of unintended discrimination, the Chambers' Equality and Diversity Officer(s) will in conjunction with the Business Director monitor the data in relation to unassigned work, pupillage and recruitment, and workforce diversity.

46. The monitoring data will be analysed as follows:

- (a) Unassigned work - every three months;
- (b) Pupillage and recruitment - annually;
- (c) Workforce diversity - every three years.

47. Where under-representation of a particular group is identified, the Equality and Diversity Officer(s) shall notify the Heads of Chambers.

48. Chambers will seek to improve the position of the under-represented group including, if necessary, steps to encourage applications from members of those groups and/or positive action within the meaning of s.159 of the Equality Act 2010.

F. Complaints and Grievances

Chambers' Personnel

49. Any member of Chambers' personnel who wishes to raise an Equality and Diversity issue which relates to Chambers' business or to activities relating to Chambers' business ("the issue"), should raise it with the Equality and Diversity Officer(s).
50. If in the opinion of the Equality and Diversity Officer(s) the issue is more properly dealt with as a complaint they may, with the consent of the person who raised the issue, refer the issue to the Complaints Officer to be dealt with as a complaint under Chambers' complaints procedure.
51. If the issue is not referred to the Complaints Officer to be dealt with as a complaint the Equality and Diversity Officer(s) will carry out all necessary investigations into the issue and give all relevant persons the opportunity to state their opinion on the issue. As far as possible the investigation of the issue will be concluded within 28 days of it being raised.
52. On completion of the investigation the Equality and Diversity Officer(s) will report their findings to the person who raised the issue ("the complainant") and to the Heads of Chambers. The report will include details of any changes to Chambers' policies or practices which the Equality and Diversity Officer(s) consider should be implemented by Chambers as a result of their investigation.
53. If the complainant is dissatisfied with the Equality and Diversity Officer(s) findings, s/he may appeal to the Heads of Chambers. Should s/he wish to appeal:
 - s/he should appeal in writing setting out the grounds upon which his/her appeal is made within ten working days of receiving notification of the findings of the Equality and Diversity Officer(s);
 - the Heads of Chambers will then invite him/her to attend an appeal meeting, which will be held within fifteen working days of their receiving his/her written appeal, or, if this is not practicable, within such reasonable time as shall be notified to him/her. Before holding the appeal meeting, the Heads of Chambers will review any evidence and make such enquiries as may seem appropriate to them;

- at the appeal meeting, the complainant will be given the opportunity to state his/her case; and
 - the Heads of Chambers will inform him/her in writing of the outcome of the appeal within ten working days of the appeal meeting, or, where this is not practicable, within such reasonable time as shall be notified to him/her. The decision of the Heads of Chambers shall be final.
54. All conversations and documents relating to any issue will be treated as confidential and will be disclosed only to the extent necessary for the investigation of the issue.
55. The Equality and Diversity Officer(s) will keep a record of every issue raised in accordance with this policy showing:-
- (a) the nature of the issue;
 - (b) the report prepared on the conclusion of the investigation;
 - (c) the outcome of any appeal; and
 - (d) any steps taken as a result of the issue having been raised.

Clients

56. Any client wishing to raise an equal opportunities complaint should do so using our Client Complaints Procedure http://www.serjeantsinn.com/client_complaints.

MH, BB & MD, June 2014

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