

3 EQUAL OPPORTUNITIES & CONFIDENTIALITY

3.1 Equal Opportunities Statement

Statement

The policy of 15NBS is to offer equal opportunities to all clients, staff, members, pupils and applicants regardless of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age or religion. Chambers does not tolerate discrimination on any of the above grounds in the selection treatment or conduct of any of its members, pupils or staff or in the provision of services to potential or existing clients.

Aims and objectives

We aim to operate systems which:

- Ensure that advice and assistance to clients is given in a fair and non discriminatory manner
- Ensure that members, staff, pupils and applicants progress on merit
- Provide a clearly defined and accessible system for dealing with complaints of discrimination in which potential complainants can have confidence
- Monitor all application, selection, training and work allocation processes to ensure compliance with the Equality Code for the Bar and Chambers' own constitution, rules and procedures
- Oblige all members of Chambers, staff and pupils to conduct themselves in compliance with the Equality Code for the Bar.

3.2 Equal Opportunities Policy- responsibility and standards

Responsibility for equal opportunities

The Management Committee has overall responsibility for ensuring that Chambers meets the legal Equal Opportunities requirements. The individual responsibility of members is specified in the Code of Conduct of the Bar which prohibits a practising barrister from discriminating directly or indirectly against or victimising anyone on the grounds of their race, colour, ethnic origin, gender reassignment, national origin, nationality, citizenship, age, sex, sexual orientation, marital status, disability, religion or political persuasion.

Standards

- Chambers has an Equal Opportunities policy
- Recruitment conforms with the Equal Opportunities policy
- Job vacancies are publicised appropriately
- Arrangements are made to monitor gender, disability etc in the recruitment process
- Professional commitments are accepted on the basis of suitability and availability of counsel rather than the nature of any client.
- Facilities are reviewed periodically in respect of minority users
- Awareness of the policy is promoted
- Training and induction materials support Equal Opportunities
- Plans shall include the promotion of equal opportunities
- Staff and members shall be trained in equal opportunities
- Conduct contrary to the Equal Opportunities Policy is not tolerated
- A monitoring system for the fair selection of tenants, pupils and staff shall be operated
- The Equal Opportunities policy shall be reviewed annually by the Management Committee and budgetary provisions made.

3.3 Definitions of discrimination

A. DIRECT DISCRIMINATION

Direct discrimination occurs where someone is put at a disadvantage on discriminatory grounds in relation to his or her employment and where a person makes assumptions and judgements about another person based on inappropriate factors (for example, their race, religion or sexual orientation) and on such grounds, treats that person less favourably than others, even if such judgements are wrong. It does not need to be intentional.

Examples

- A member or clerk refuses to accept instructions from a potential client on the basis of their race.
- A woman with young children fails to obtain a job because it is feared that she might be an unreliable member of staff.
- A Sikh applicant for a senior post is not appointed because he might not 'fit in' with the existing (all white) team.

- A person is subjected to sexual innuendo or other offensive conduct of a sexual nature at work.

B. INDIRECT DISCRIMINATION

Indirect discrimination occurs where the individual's employment is subject to an unjustified condition (such as a policy, requirement, provision, criterion or working practice) which one sex, race etc. finds more difficult to meet although on the face of it the condition or requirement is 'neutral'.

Examples

- A requirement for GCSE English as a selection criterion. This would have a disproportionately adverse impact on people educated overseas and may not be justified if all that is needed is to demonstrate a reasonable level of literacy.
- Full-time work—this would have a disproportionately adverse impact on more women with small children as they are generally accepted as taking the primary childcare role. It may not be justified if Chambers' business needs can still be met by more flexible working arrangements.

C. DISABILITY DISCRIMINATION

An employer discriminates against a disabled person where

for a reason which relates to the disabled person's disability, it treats that person less favourably than it treats or would treat others to whom that reason does not or would not apply, and, it cannot show that the treatment in question is justified;

the employer fails to comply with a duty imposed on it to make reasonable adjustments in relation to a disabled person; or

on the ground of the disabled person's disability, he treats the disabled person less favourably than he treats or would treat a person not having that particular disability whose relevant circumstances, including his abilities, are the same as, or not materially different from a disabled person.

Examples

- A requirement for staff to hold a valid driving licence for a job which involves little travelling.
- Failure to recruit a wheelchair user without first considering whether the working arrangements or premises can reasonably be adapted to his needs.

D. VICTIMISATION

Victimisation occurs where an individual is treated less favourably than colleagues because he/she has taken action in good faith to assert statutory rights or assisted a colleague to do so.

The employee may have :

brought proceedings against his/her employer or any other worker;

given evidence or information in connection with proceedings brought by another person against his/her employer or any other worker;

taken any other action under or by reference to the statutory provisions governing discrimination; or

made any allegations against his/her employer or any other worker which would amount to a contravention of the statutory provisions governing discrimination.

Examples:

an employee brought an equal pay claim which her employers successfully resisted. She was subsequently accused of gross negligence and demoted.

an employee intended to give evidence for his wife when she brought a sex discrimination claim against the company that employed them both. The employee was made redundant.

E. HARASSMENT

Harassment is either:

- Unwanted or unfavourable conduct, whether verbal or not, which is of a sexual or racial nature or tends to violate the dignity of a person on grounds of religion or disability, or other conduct based on someone's race and/or gender, sexual orientation, religion, belief or disability which affects the dignity of men or women at work; or
- Creating an intimidating, hostile or offensive environment.

A single incident can amount to harassment if sufficiently grave.

Examples of harassment or bullying include sexual or racial banter, jokes about persons of a particular religious community or suffering from a disability; the display of material with sexual or racial overtones (even if not directed at the complainant); sarcastic personal remarks about colleagues, or over-demanding or exigent requirements.

F POLICY

Chambers is committed to ensuring that all its members, pupils, staff and applicants are protected from unlawful discrimination. The CMC is responsible for ensuring an equal opportunities environment is maintained.

1.3 Implementing equality of opportunity

Recruitment, employment and professional availability decisions will be made on the basis of fair and objective criteria.

The requirements of job applicants and existing members of staff who have or have had a disability will be reviewed to ensure that reasonable adjustments are made to enable them to enter into or remain in employment with Chambers. Promotion opportunities, benefits and facilities will not be unreasonably limited and every reasonable effort will be made to ensure that disabled staff participate fully in the workplace.

Person and job specifications will only contain those requirements which are necessary for the effective performance of the job. Interviews will be conducted on an objective basis and personal or home commitments will not form the basis of employment decisions except where necessary.

All members, pupils and staff have a right to equality of opportunity and a duty to implement this policy. Breach of the equal opportunity policy is potentially a serious disciplinary matter. Anyone who believes that he or she may have been disadvantaged on discriminatory grounds is entitled to raise the matter through the grievance procedure (5.5).

SECTION 2 - HARASSMENT POLICY

2.1 Harassment

Harassment pollutes the working environment and can have a devastating effect on the health, confidence, morale and performance of those affected by it. It may also have a damaging effect on other staff not themselves the object of unwanted behaviour who are witness to it or who have knowledge of the behaviour. All staff are entitled to a working environment which respects their personal dignity and which is free from such conduct. Harassment is a disciplinary offence and incidents will be dealt with under the disciplinary procedure.

2.2 Prevention of harassment

A. Informal stage

It is entirely in order for a recipient of unwanted conduct amounting to harassment to try to resolve the problem personally if he/she so prefers, by explaining to the individual concerned that the behaviour is not welcome, that it offends or makes the recipient uncomfortable and/or that it interferes with his or her work.

Anyone who has been subjected to harassing or bullying behaviour may seek confidential assistance from a designated member of the CMC, who will be responsible for investigating the matter if it becomes a formal complaint. All assisting staff have received training to enable them to advise and assist you in devising means of preventing a recurrence of the unwanted behaviour.

An informal approach to an assisting staff member will be treated as completely confidential and will not result in any report to anyone within Chambers unless you agree.

If you prefer, where you find it too difficult or embarrassing to take up the matter yourself, the assisting member of staff will participate in an informal meeting between you and the individual concerned or will, at your request, approach the individual on your behalf.

The informal stage will not result in any formal internal investigation or disciplinary action but is intended to provide an opportunity to try to resolve the matter yourself without it going any further in Chambers.

If you consider that you may have been subjected to conduct amounting to a criminal offence (such as a sexual assault), you are entitled to seek the assistance of the assisting member of staff to accompany you to make a formal complaint to a police officer or to provide you with any other assistance you may require. The assisting member of staff will inform the CMC (HR) of the outline circumstances of the case and may liaise with him/her to arrange special discretionary compassionate leave for you.

B. Formal stage

Where informal resolution is not appropriate, or has not been requested or where the outcome has been unsatisfactory, then you may bring a formal complaint to the CMC. If possible, you should state:

the name of the alleged harasser

the nature of the alleged harassment

the dates and times when the alleged harassment occurred

the names of any witnesses