

Outer Temple Chambers

Equality & Diversity Policy

Our policy

1. Chambers is committed to the provision of equality and the creation of diversity within our organisation. We will achieve this through adopting and promoting policies, processes and procedures that ensure:
 - a. all barristers, pupils and employees and potential recruits are treated fairly and with respect at all stages of their recruitment and practice or employment;
 - b. everyone in Chambers has the right to be free from harassment and bullying of any description, or any other form of unwanted behaviour, whether based on gender, marital status, pregnancy & maternity, race, disability, sexual orientation, gender reassignment, age, political or religious belief;
 - c. everyone in Chambers has an equal chance to contribute and to achieve their potential, irrespective of any defining feature that may give rise to direct or indirect discrimination;
 - d. we take positive steps to identify and eliminate possible areas of both direct and indirect discrimination in relation to the treatment of our lay and professional clients.

2. Chambers is committed to developing an organisation which reflects the diversity of the communities we serve. Specifically we are committed to the following statements and the actions required to conform with them:
 - a. women and men are fully and properly represented and rewarded for their contribution at all levels of the organisation;
 - b. the ethnic and cultural diversity of our communities should be represented at all levels of the organisation;
 - c. the abilities of people with disabilities are recognised and valued at all levels of the organisation through focusing on what people can do rather than on what they cannot, challenging stereotypes about people with disabilities and making appropriate adjustments in the workplace to help people with disabilities achieve their full career potential;
 - d. people are treated fairly in the workplace irrespective of their sexual orientation or gender reassignment through respecting different lifestyles and challenging negative stereotypical views;
 - e. age diversity within the workforce is promoted and valued through challenging age stereotyping and recognising the benefits of a mixed-age workforce;
 - f. people are treated fairly and equally in Chambers irrespective of their marital or family status;
 - g. people are treated fairly in the workplace irrespective of their religious or political opinions by recognising individuals' freedom of belief and right to protection from intolerance and persecution.

3. In order to ensure that we continue to promote equality and diversity within Chambers we collect and monitor personal data of staff, pupils, barristers and applicants to Chambers regarding gender, ethnic origin and disabilities. This information is used solely for monitoring purposes and is kept entirely confidential in line with our Diversity Data and Information Security and Data Protection policies.
4. Anyone that considers that they have been subject to discrimination has recourse to Chambers grievance procedure.
5. Underlying this policy is our intention 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, this policy provides a framework for the promotion of equality and diversity and the internal resolution of complaints involving pupils, squatters, tenants or members of staff.
6. Several other policies and procedures reaffirm and support this policy. All new members, pupils and staff are made aware of these as part of their induction and where relevant these are available to members of the public. They include:
 - a. Anti-Harassment and anti-bullying policy [S9/ANNB/14];
 - b. Grievance policy and procedure for staff [S5/ANNE/14];
 - c. Grievance policy for barristers [S9/ANN/D];
 - d. Grievance policy for pupils – set out in main 12 month and OTC/FRU Extended Pupillage policy documents
 - e. Maternity, Adoption, Paternity and Primary Carer Leave Policy for staff [S5/ANNH/14];
 - f. Primary Carer and Parental Leave Policy for barristers [S9/ANNC/18];
 - g. Recruitment policy for tenants [S2/ANNE/13];
 - h. Pupillage policy [S10/ANNA/16];
 - i. 3rd six pupillage policy [S10/ANNE/12];
 - j. Complaints policy [S2/ANNF/14];
 - k. Reasonable Adjustments Policy [S9/ANNE/12];
 - l. Whistle blowing policy [S5/ANNF/14];

The Legislation

7. Chambers' Equality Policy reflects the legislative framework provided by Parliament through the Equality Act 2010. This statute consolidates the array of legislation and regulations, which had previously formed the basis of UK discrimination law. These included:
 - a. Equal Pay Act 1970;
 - b. Sex Discrimination Act 1975;
 - c. Race Relations Act 1976;
 - d. Disability Discrimination Act 1995;
 - e. Employment Equality (Religion or Belief) Regulations 2003;
 - f. Employment Equality (Sexual Orientation) Regulations 2003;
 - g. Employment Equality (Age) Regulations 2006.

8. The legal position can be summarised as follows¹:
- a. It is unlawful for anyone in Chambers to discriminate against a person in relation to any offer of pupillage, employment, or tenancy [on grounds of race, religion, belief, sexual orientation, age², gender or disability]:
 - i. in terms of the selection procedure and the basis for making an offer;
 - ii. in terms of the basis on which an offer is made; or
 - iii. by refusing or deliberately not offering it to him or her.
 - b. It is unlawful for a barrister or a staff member, in relation to a pupil or tenant in the Chambers in question, to discriminate against her/him:
 - i. in respect of any terms applicable to him or her as a pupil or tenant;
 - ii. in the opportunities for training, or gaining experience, which are afforded or denied to her/him;
 - iii. in the benefits, facilities or services which are afforded or denied to him [or her];
 - iv. by termination of his or her pupillage or by subjecting him or her to any pressure to leave chambers or other detriment.
 - c. It is unlawful for any person in relation to giving, withholding or acceptance of instructions to a barrister to discriminate or to subject any person to harassment.
 - d. It is unlawful for a barrister or staff member, in relation to a pupillage or tenancy in the set of Chambers in question, to subject to harassment a person who is or has applied to be, a pupil or tenant.
 - e. Barristers, clerks and Chambers are required to make reasonable adjustments to physical features of premises, and to provisions, criteria or practices which place disabled tenants, pupils or applicants at a substantial disadvantage or make it impossible or unreasonably difficult for disabled persons to make use of our services.
 - f. As service providers, barristers also have duties not to discriminate against anyone seeking to use their professional services on the basis of sexual orientation, race, gender, religion & belief or disability.
9. The Policy also reflects the provisions³ of the BSB's Handbook⁴.
10. Core Duty 8 of the Handbook states: "You must not discriminate unlawfully against any other person." This is supplemented by rC12 which expands and clarifies:
- "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."

¹ The outline below is merely a summary of the statutory provisions. It is not an exhaustive account of the effect of the Equality Act 2010.

² Age discrimination can be justified if it is a proportionate means of achieving a legitimate aim

³ 9 January 2019 and successive editions

⁴ <http://handbook.barstandardsboard.org.uk/handbook/>

Positive Action

11. Outer Temple is committed to positive action to redress imbalances or inequalities in Chambers. Positive action is not the same as positive discrimination, reverse discrimination or the setting of quotas all of which are illegal. Positive action initiatives which Chambers supports to enhance equality and diversity include:
- a. advertising in publications which are more likely to be read by under-represented groups in chambers;
 - b. making it clear on adverts that we welcome applications from under-represented groups;
 - c. projecting an image of a diverse organisation to attract under-represented groups
 - d. work placements, work experience and/ or pre-entry training for under-represented groups;
 - e. mentoring and/or training for promotion/ selection;
 - f. flexible working and/or reasonable adjustments;
 - g. meetings within chambers for under-represented groups.

Responsibilities

12. Chambers has an established organisation in place to ensure this policy and related procedures are implemented. This involves the following personnel / authorities:

The Equality Officers⁵ are responsible for:

- a. monitoring changes in legislation and updating Chambers' policy and procedures accordingly;
- b. promotion of this policy within Chambers and externally where appropriate;
- c. analysis and review of equal opportunity monitoring data;
- d. co-ordination of the annual equality review.

The Diversity Data Officer⁶ is responsible for:

- a. ensuring that Chambers meets the diversity data analysis rules set out in the Code of Conduct within the Handbook;
- b. the collection of diversity data from staff and barristers, mini-pupils and pupils and all applicants. This may cover age, gender, disability, ethnic group, religion or belief, sexual orientation, socio-economic background and caring responsibilities;
- c. the publication, within the guidelines, of diversity data on our website;
- d. the completion of diversity data surveys on behalf of Chambers e.g. BSN.

The Practice Directors are responsible for:

- a. ensuring the fair distribution of unallocated work to pupils and tenants;
- b. monitoring income, work levels and patterns of work for pupils and tenants;
- c. production of reports for review by the Pupillage Committee and equality officers.

⁵ There are four equality officers currently: Sarah Crowther QC, Samantha Presland, Harry Trusted, David Grant

⁶ There is one Diversity Data officer: Shiraz Oshidar

The Equality officers, Practice Directors and Pupil Supervisors are responsible for:

- a. ensuring the effective implementation of this policy;
- b. ensuring that appropriate equality and diversity training is provided to all staff; barristers, pupils and pupil supervisors;
- c. hearing and resolution of grievances relating to equality in the first instance.

The Head of Chambers is responsible for:

- a. final resolution of grievances or referral to outside sources if this is not possible.

Everyone in Chambers is responsible for:

- a. understanding and complying with this policy;
- b. applying the policy in dealings with all internal and external customers and colleagues and in all aspects of our day-to-day business;
- c. promoting equality and diversity in Chambers.

Forms of Discrimination

13. Chambers opposes all forms of discrimination. Discriminating or helping others to discriminate is a disciplinary offence which, in serious cases, may lead to dismissal or expulsion.
14. Direct Discrimination. This is where someone is treated less favourably because of their race, colour, ethnic or national origin, nationality, citizenship, gender, sexual orientation, marital status, disability, age, religion or belief.
15. Indirect discrimination occurs where:
- a. a requirement or condition is applied equally to everyone but a considerably smaller proportion of one group than of the other persons to whom it applies can comply with it;
 - b. a particular individual cannot comply with the requirement;
 - c. it results in a detriment to them; and
 - d. the requirement cannot be shown to be objectively justifiable in spite of its discriminatory effect.
16. Harassment creates an intimidating or unpleasant working environment that may affect career advancement and thereby constitute discrimination. It is defined as 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. 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 inoffensive. Chambers' has a separate Anti- Harassment and anti-bullying policy.
17. Victimisation consists of less favourable treatment to those who have brought proceedings, or given evidence or information for the purpose of legal or disciplinary proceedings or made a complaint based upon an allegation of discrimination. Such treatment is unlawful under the anti discrimination legislation set out above and will

also breach the Code of Conduct.

Age discrimination

18. Chambers must not in relation to any offer of 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.

Grievances and Harassment

19. Anyone who considers that they have been subject to discrimination has recourse to Chambers' Grievance Procedures. A similar process for anyone who feels they are subject to harassment is in place and is defined in the Anti-Harassment and anti-bullying Policy [S9/ANNB/14].

Selection of Staff, Pupils and Tenants

20. It is paramount, given the nature of entry into the profession, that the selection criteria for pupillage and tenancy should be free from discrimination. Outer Temple Chambers therefore undertakes that the recruitment policy towards pupils and tenants should:
- a. be transparent and be set out in a document which is available to all on request;
 - b. not be subject to change during the selection process;
 - c. be based on objective and explicit criteria which relate to the demands of the work;
 - d. save in exceptional circumstances, be applied equally to all potential recruits;
 - e. be free from assumptions based on stereotypical views or expectations of the behaviour and characteristics of any particular group;
 - f. not be subject to the will or unexplained veto of any one person alone.
21. The selection processes in place within Chambers are described in the following documents:
- a. members: Recruitment Policy for tenants;
 - b. pupils: Pupillage Policy & OTC/FRU Extended Pupillage policy
 - c. staff: Staff Management section of the Quality Manual

The above documents have been drawn up in accordance with our policy statements and are subject to regular review as part of Chambers management review process.

Equality of Opportunity in Chambers

22. The allocation of unnamed (unassigned) 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. Selection of counsel will be on the basis of the skills and experience required for the particular case. In particular, no pupil or tenant shall suffer unlawful discrimination:
- a. in the arrangements the purpose of determining who work should be allocated to;
 - b. in respect of any terms on which work is offered, or by a refusal, or deliberate omission, to offer it to him or her.
23. Furthermore, no pupil or tenant shall suffer unlawful discrimination:

- a. in respect of any terms applicable to her/him as a pupil or tenant;
- b. in the opportunities for training, or gaining experience which are provided or denied;
- c. in the benefits, facilities or services which are provided or denied;
- d. in the volume or type of work which is offered or denied;
- e. by termination of his or her pupillage or by subjecting him or her to any pressure to leave chambers or other detriment.

Maternity and Paternity Leave

24. Chambers policies for maternity and paternity leave are as follows:

- a. Members: As defined in the Primary Carer and Parental Leave Policy for barristers [S9/ANNC/18]
- b. Staff: Maternity, Adoption, Paternity and Primary Carer Leave Policy for staff [S5/ANNH/14] is in accordance with statutory requirements and is detailed in the Quality Manual.
- c. Pupils: flexible arrangements for maternity/paternity leave are detailed in the pupillage section of the Quality Manual.

25. Request for any special treatment in relation to maternity and paternity arrangements will be considered by the Management Committee, who at their discretion may grant or refuse such requests. To ensure consistency in such matters, decisions will be recorded in the minutes of meetings for reference.

Diversity Monitoring

26. The BSB has introduced new rules for the profession on the gathering and publication of equality data⁷. In accordance with the Bar Standard Board's Handbook,⁸ all members of Chambers and staff will be given the opportunity to provide their Diversity Data for collection. The Diversity Data Officer shall be responsible for arranging and supervising the collection of Diversity Data. In accordance with the guidelines members and staff who provide diversity data do so voluntarily.

27. Diversity data will be collected electronically through Survey Monkey (or another similar online tool) for current members and staff and anonymised written forms during the recruitment process.

28. The BSB now positively requires Chambers to publish diversity data in an anonymised summary format. Chambers already publishes an anonymised breakdown of demographics for gender, ethnicity and age. The summary breaks down the information in a way which categorises each diversity characteristic against job status and role, in a manner which reflects seniority. Additional diversity data will be added to this breakdown once it is available.

29. Where there are fewer than 10 individuals within each published category who identify through the questionnaire with the same diversity characteristic (eg., 4 individuals with a

⁷ See <http://handbook.barstandardsboard.org.uk/handbook/>

⁸ [rC110(3) (n) – (t); see also page 19 of BSB handbook Equality Rules – supporting information]

job role at the same level of seniority identify themselves as disabled), Chambers shall not publish the anonymous data relating to those individuals and that characteristic - unless the individuals concerned have each consented to such publication, in the knowledge that they may be identified.

30. In addition to monitoring the information above to identify and eliminate sources of unintended discrimination, Chambers will monitor:
 - a. the recruitment of applicants for pupillages and tenancy (using data from Pupillage Gateway and Equality & Diversity Monitoring Forms analysis – see below);
 - b. the allocation of unnamed work between pupils (by the Pupillage Committee using standard reports from the Lex computer system);
 - c. the treatment of pupils with respect to finance and progression to tenancy (monitored by the Pupillage Committee);
 - d. the treatment of staff with respect to terms and conditions of employment, pay reviews, training opportunities, promotion and appraisals (by one of the equality officers by review of information and records relating to such matters).
31. The monitoring data will be analysed as part of the Annual Equality Review and where under-representation of a particular group is identified, Chambers will seek to improve the position of the under-represented group.
32. Equality and Diversity Monitoring Forms (EDMFs) will be issued to applicants of all openly advertised tenancy positions. On receipt, the completed EDMFs will be separated from the applicant's communication to ensure their identity is concealed. EDMF- derived data will be analysed by staff. Those involved in the selection process will not see the EDMFs and will not be party to their analysis. EDMF data for pupils is collated via Pupillage Gateway and this is analysed by the Pupillage Committee. The findings of both these analyses are reviewed as part of the annual equality review.
33. Individuals have a right to withdraw their consent or object to the use of their diversity data at any time. Where data has already been provided and a person wishes to withdraw their consent to its use, they should notify the Diversity Data Officer in writing. S/he will promptly delete or destroy any diversity data which includes personal data and will confirm that this step has been taken within 21 days of receiving notification. Where the anonymised data has been published in summary form, the diversity data officer will not extract personal data from the published summary unless a person has reason to believe that continued publication of the anonymised data is causing or is likely to cause them or someone else substantial damage or distress. In such circumstances, the Diversity Data Officer will consider the reasons that have been put forward. They shall respond within 21 days from the date of notification to confirm the action taken.
34. Should anyone have any questions or complaints about the monitoring of diversity data, they should contact the Diversity Data Officer or the equality officers.

Communication of the Equality Policy

35. A copy of this policy will be provided to all members, employees and pupils of Chambers.
36. Awareness training, fair recruitment training and unconscious bias training will be provided for staff, members and pupils so that everyone is aware of the policy and

related procedures (especially behaviour that is unacceptable within the working environment) the harassment policy, procedures for making complaints and assistance available. Records will be kept to indicate which staff, members and pupils have completed training.

37. All new personnel will receive awareness training as part of their induction training.
38. Chambers' commitment to equality will also be promoted where appropriate such as on the web-site and on recruitment advertising.

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