

FAIR ACCESS TO AND ALLOCATION OF WORK POLICY

Scope and purpose of this policy

1. Chambers is committed to taking all reasonable steps to ensure that opportunities for work are distributed in a manner which is fair and equitable as between members of Chambers (and, where relevant, pupils). This shall specifically include taking all reasonable steps to ensure that, in the case of unassigned work, members and pupils have an equal opportunity to be put forward for consideration in a way which is free from unlawful discrimination on the grounds of any one or more protected characteristics.
2. The purposes of this policy are to:
 - a. Specify the procedures by which Chambers will seek to achieve the objectives set out in paragraph 1 above;
 - b. Enable Chambers to monitor compliance with those objectives; and
 - c. Comply with the rules of the Bar Standards Board which require Chambers (i) to ensure fair access to work, (ii) to regularly review the allocation of unassigned work, and (iii) to identify, investigate and take appropriate remedial action in respect of disparities in such allocation.
3. In the event of any uncertainty arising as to the meaning of this policy, and/or any issue to do with fair access to and allocation of work arising that is not expressly dealt with in this policy, that uncertainty and/or issue shall be resolved in accordance with the objectives and purposes of the policy.

Definitions

4. For purposes of this policy:
 - a. The “*protected characteristics*” are (i) age, (ii) disability, (iii) gender reassignment, (iv) marriage and civil partnership, (v) pregnancy and maternity, (vi) race, (vii) religion or belief, (viii) sex and (ix) sexual orientation; and these terms shall bear the same meaning in this policy as in the Equality Act 2010.
 - b. “*Unassigned work*” includes both (i) instructions which are sent into Chambers and (ii) instructions in respect of which any enquiry is made prior to them being sent into Chambers; and work constitutes “*unassigned work*” if, at the point of enquiry and/or at the point at which it is sent into Chambers, the person instructing does not state that it is to be assigned to a named member of Chambers. “*Unassigned work*” includes (i) instructions in respect of which the person initially named is not available to take the work, (ii) work where the person initially instructed requires replacement, and (iii) work where an additional person needs to be instructed.
 - c. The “*Fair Allocation of Work Monitor*” is the member of Chambers designated as having responsibility for ensuring compliance with this policy (currently Keir Howie).

Practice Development

5. Mentoring to assist practice development is available to members of chambers as follows:
 - a. Any member taking leave of absence from Chambers by way of Parental Leave will be offered the opportunity of having a mentor arranged from within Chambers by the Equality and Diversity Committee (“EDC”), in accordance with the terms of the Parental Leave Policy.
 - b. Any junior member of fewer than four years’ standing who so wishes, and who has not chosen to nominate one of their pupil supervisors to act as a mentor pursuant to the Pupillage Policy, may request to have a mentor arranged within chambers. Junior members wishing to take advantage of this facility should notify the Fair Allocation of Work Monitor, who will liaise to make the necessary arrangements with the EDC. The EDC will maintain a list of

volunteers willing to act as a mentor and from whom (subject to their availability at the relevant time) the member is free to choose, if they so desire.

6. Regular practice development meetings will take place between tenants and the Senior Clerks. The purpose of these meetings is to enable discussion of work allocation, work opportunity and individual practice development. The Senior Clerks will offer members the opportunity of a practice development meeting on an approximately annual basis, but members are free to request such a meeting at any time.

Work allocation

7. The Clerks will circulate a weekly email to members of Chambers to ascertain members' availability to undertake new work.
8. The Clerks will select which barrister(s) to put forward for a work opportunity by reference to criteria which do not give rise to unlawful discrimination, and will attempt to achieve overall fairness in allocation of work opportunities and equal access to the full range of work undertaken by Chambers.
9. The following are (non-exhaustive) examples of criteria which do not give rise to unlawful discrimination, and to which the Clerks may have regard when selecting which barristers to put forward for a work opportunity:
 - a. A barrister's level of seniority in relation to the level of seniority requested by the instructing entity and/or which the Clerks reasonably consider to be appropriate for the work opportunity concerned;
 - b. A barrister's professional experience in relation to the experience desired by the instructing entity and/or which the Clerks reasonably believe to be appropriate for the work opportunity concerned;
 - c. A barrister's lack of current work (including, for the avoidance of doubt, lack of current work as a result of returning from a period of extended leave or absence).
10. The Clerks are therefore not obliged to put forward all barristers who are available for a work opportunity, if the criteria in paragraph 9 above (together with any other relevant and legitimate considerations) suggest that it is appropriate to put forward a more limited selection of barristers in the first instance. The clerks should accordingly make this assessment before circulating the work opportunity to members of Chambers.

11. In the event that a decision is taken not (or not initially) to circulate a work opportunity to all those who might potentially be available and appropriate, this decision will be recorded by the Clerks, together with the reasons for selecting those to whom the work was circulated, or initially circulated, as the case may be.
12. The Clerks will seek to ensure, where possible, that instructions are not delivered by instructing entities at such times as to preclude those with childcare and other dependent care commitments from being eligible for that work.
13. Where a member of Chambers is in a position to select or recommend another member either to replace them or to work with them on a case, that member must act fairly in their selection or recommendation to instructing entities. For this purpose, acting fairly includes ascertaining from the Clerks the names of all members who are available and appropriate for the work in question and refraining from making any selection between members on grounds which give rise to unlawful discrimination.
14. Chambers' management software (currently Lex) will be used by the Clerks to record data which is necessary to enable the monitoring of the allocation of unassigned work in Chambers by reference to protected characteristics. When fair allocation reviews are undertaken, this data will be used to produce anonymised reports that set out the allocation of unassigned work as broken down by reference to race, disability and gender. Equivalent reports may also be produced by reference to other protected characteristics if the Fair Allocation of Work Monitor considers that this is reasonably required (for instance, in response to changing regulatory requirements or a specific concern being raised).

Monitoring and review of work allocation

15. The Clerks will provide the Fair Allocation of Work Monitor on a six-monthly basis with the reports that are required in accordance with paragraph 14 above, in respect of the six-month period just ended.
16. The Fair Allocation of Work Monitor will review the reports when received. The purpose of the review will be to identify whether opportunities have been allocated fairly, and whether any member(s) or group(s) of members appear not to be receiving a fair opportunity as regards work allocation and access to the full range of work undertaken in Chambers. The review should pay particular attention to members of fewer than four years' standing or who have recently returned from a period of parental or other leave. The Fair Allocation of Work Monitor will consult with the Senior Clerks as appropriate for the purpose of understanding and interpreting the reports.

17. If the Fair Allocation of Work Monitor's review of the reports leads them to become concerned that any clerk and/or member of Chambers and/or instructing entity and/or client may be exhibiting briefing practices which tend to favour or discriminate against a particular person or group on the basis of protected characteristics, the Fair Allocation of Work Monitor will raise their concerns with the Senior Clerks and the Head of Chambers.
18. The Fair Allocation of Work Monitor will report to the Senior Clerks and Manco on the outcome of their monitoring and any issues arising (copied to the EDC).
19. If the Fair Allocation of Work Monitor identifies any reason for concern that any individual member of Chambers has been affected by unfair treatment in the allocation of work, the Fair Allocation of Work Monitor will discuss the position with that individual, and the individual's mentor if appropriate, and report to the EDC and Manco. Manco will take steps to prevent the continuation or recurrence of any such treatment.
20. The Fair Allocation of Work Monitor is to enquire in the course of carrying out each six monthly review whether any member of Chambers and/or pupil has any concerns regarding the allocation of unassigned work.

Training

21. All Clerks involved in the monitoring of work allocation are to be provided with equality and diversity training. The EDC will ensure that all the Clerks are fully briefed on the need to distribute work in a fair and non-discriminatory manner and to monitor work allocation. The EDC will take all reasonable steps to keep members aware of opportunities for equality and diversity training.

Potentially discriminatory requests/instructions

22. If the Clerks receive a request from an instructing entity and/or client that is (or appears to be) discriminatory, for example a request for a barrister of a particular sex or race, they will explore the reasons for the request and meet the underlying need in a non-discriminatory way. On no account will the Clerks comply with any request or requirement to discriminate on unlawful grounds in the choice of barrister. Should the instructing entity and/or client refuse to modify or withdraw the request, the work will be politely refused, and the Clerk will make a full note of the incident immediately. Where appropriate, instructing entities and other professionals will be reported to their professional disciplinary body.

Compliance with policy/complaints

23. All members of Chambers and Clerks are required to comply with this policy. Failure to do so will result in the implementation of disciplinary procedures including, in the case of Clerks, dismissal for serious offences.
24. Chambers' Grievance Procedure is available in respect of any complaint about allocation of work. If any member or pupil has a complaint and/or concern as to fairness of allocation and access to work, they should refer initially to the Fair Allocation of Work Monitor, who will attempt to assist in resolving any such complaint or concern with the Senior Clerks (and will in any event report on the complaint or concern to the EDC and Manco).

Miscellaneous

25. In practice, pupils in Chambers do not normally accept instructions unless and until they are offered, and accept, a tenancy at Chambers, and the issue of fair allocation of work to pupils therefore does not normally need to be considered before that point in time. Pupils however have the same rights under this policy as any member of Chambers.
26. Chambers' marketing and networking activities are to be organised bearing in mind the need for all tenants (and, where relevant, pupils) to be equally involved, so far as practicable.
27. Chambers encourages pupils and junior tenants to take part in Chambers' seminars and lectures, attend outside lectures, write in professional publications and become involved in professional organisations and legal advice and/or support organisations.
28. If a member of Chambers, pupil, or member of staff has a query or concern about this policy or its application, he or she should raise it with the Fair Allocation of Work Monitor, who is responsible for monitoring the effectiveness of the policy. It is intended that this policy, and its operation, should be regularly reviewed.