

FAIR ACCESS TO WORK POLICY

Introduction

1. The opportunities for barristers to develop a successful practice in their areas of interest are frequently affected by the range and quality of work on which they are instructed in the early stages of their careers and even in pupillage.
2. Pupils and members of Chambers should be afforded the opportunity to develop their practices in a fair and equal manner, free from any discriminatory or stereotyped career assumptions that may exist.
3. The purpose of this policy ("**the Policy**") is to put in place effective procedures for:
 - a. The monitoring of work allocation amongst pupils and members of Chambers;
 - b. Ensuring the fair distribution of work, particularly unassigned work, amongst pupils and members of Chambers;
 - c. Ensuring the fair distribution of opportunities to attract future assigned work (marketing); and
 - d. Responding to, and rectifying where appropriate, complaints and concerns about work allocation.

Regulatory Requirement

4. rC110(3)(i) of the BSB Handbook requires that the affairs of chambers are conducted in a manner which is fair and equitable for all members of chambers, pupils and/or employees. This includes, but is not limited to, the fair distribution of work opportunities amongst pupils and members of chambers.

Monitoring of Work Allocation

5. Chambers will ensure that its clerks use LEX software to monitor Chambers' internal distribution procedures and instructing solicitors' briefing practices. The clerks should be particularly aware of issues relating to the distribution of any unassigned work coming into Chambers, and the distribution of work between members of Chambers and pupils and junior tenants. The distribution of such work, in particular, should be systematically monitored on LEX to ensure that any disparities in allocation are identified and rectified.
6. One member of Chambers will be appointed as 'Fair Access to Work Monitor' ("**the Monitor**"). He or she will be responsible for overseeing the monitoring of work and should meet with the senior clerk on a regular basis in order to compare and review the work distribution data to ensure that work is distributed in a manner which is fair. For these purposes, 'regularly' is at least once every six months. The Monitor will report to the Board of Chambers as soon as reasonably practicable after his or her meeting with the senior clerk.
7. The Monitor should use the work distribution data to ascertain whether any instructing organisations or solicitors exhibit briefing practices which tend to favour a particular group. If any such trend is identified, it will be reported to the Board of Chambers, which will consider whether there is any underlying discriminatory practice and (if so) what steps should be taken in order to remedy the situation.

Ensuring the Fair Distribution of Work

8. Senior members of Chambers and clerks play a particularly important role in the allocation of work since both may be asked by clients for their views as to who would be suited to a particular piece of work. Therefore, all senior members of Chambers and clerks must be briefed on the importance of fair allocation of work and (where appropriate) be provided with equality and diversity training. It is a principle of fundamental importance that senior members of Chambers and the clerks will seek to ensure that, where possible, the allocation of work in Chambers is dealt with in a fair and equitable manner.

9. The clerks should also seek to ensure, where possible, that instructions and briefs are not delivered by solicitors at such times as to preclude those with childcare and other dependent care commitments 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 should be given to whether it can be forwarded electronically, for example by scanning and emailing it.
10. Late delivery of briefs may also disadvantage disabled barristers who may require the court to make adjustments for them which cannot be made on the morning of a trial or hearing.
11. The fair allocation of work amongst pupils and members will be monitored in the manner described above. Chambers will have in place procedures for dealing effectively with complaints or concerns about allocation of work (see below).

Potentially Discriminatory Requests

12. 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 SRA Code of Conduct 2011 prohibits solicitors from discriminating unlawfully against any person in the course of their professional dealings. Such dealings will include the instruction of barristers.
13. It is vital that the all of the clerks are aware of the legal position set out above.
14. Clerks may receive requests that are discriminatory, for example requests from solicitors for a barrister of a particular sex or race for a particular piece of work where no justification for such exists. 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.

15. 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.

Ensuring the Fair Distribution of Opportunities for Future Assigned Work (Marketing)

16. Marketing strategies for pupils and members of Chambers should take into account equal opportunities considerations. It is incumbent upon Chambers to ensure that marketing and networking activities, such as giving or attending seminars and lectures and social activities such as quiz nights and sporting activities, are organised so that all pupils and tenants can, so far as practicable, be equally involved. This extends to opportunities for pupils and junior tenants to get to know more senior members of chambers and the clerks.
17. To this end Chambers' marketing and networking and marketing opportunities shall be publicised within Chambers and allocated fairly. This will usually be done by one of the clerks sending out an email inviting expressions of interest for a particular networking or marketing event.

Responding to, and Rectifying, Complaints

18. It is hoped that, for so long as Chambers adheres to the guidelines above, there should be limited scope for complaints about the fair allocation of work (and opportunities for work).
19. To ensure transparency and openness, the clerks will be encouraged to discuss fair allocation of work (and opportunities for work) with, and provide relevant work distribution data to, members of Chambers at their individual practice development meetings. This should provide a relatively informal and effective forum for airing, and rectifying, any complaints about the fair allocation of work (and opportunities for work) in Chambers.

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20. However, if a pupil or member of Chambers wishes to make a formal complaint about the fair allocation of work (and opportunities for work), then Chambers' Complaints and Grievance Procedure should be followed.

21. This policy was adopted on the date below and will be reviewed by the Equality and Diversity Officer in 12 months from that date.

Approved by the Board, 24 April 2019