

St Ive's Chambers

Policy for Equal Opportunity & Non-Discrimination

1) INTRODUCTION

St Ive's Chambers is committed to the implementation and promotion of equal opportunities and to ensuring an absence of direct or indirect discrimination on grounds of race, colour, ethnic or national origin, nationality, citizenship, gender, sexual orientation, marital status, disability, religion or political persuasion, age or sex. Such a commitment entails that positive steps be taken to identify and eliminate possible areas of discrimination in relation to:

- The recruitment of pupils, tenants and staff
- The treatment of pupils, tenants and staff both professionally and socially
- Relations between staff, pupils and tenants both professionally and socially
- The treatment of lay and professional clients

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 equal opportunities and the internal resolution of complaints involving members of chambers be they pupils, squatters, tenants or members of staff.

2) THE LEGISLATION

The Code reflects the legislative framework provided by Parliament including:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Courts & Legal Services Act 1990
- Disability Discrimination Act 1995

Section 64 of the Courts & Legal Services Act 1990 introduced amendments to the **Race Relations Act 1976** and the **Sex Discrimination Act 1975**. **Sections 26A of the Race Relations Act** and **Section 35A of the Race Relations Act 1975** now contain provisions to the following effect:

- 1.) It is unlawful for any barrister or barristers clerk, in relation to any offer of pupillage or tenancy to discriminate against a person on grounds of race, age or sex:
 - 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
 - c) by refusing or deliberately omitting to offer it to him or her.

- 2) It is also unlawful for a barrister or a barrister's clerk in relation to a pupil or tenant in the Chambers in question to discriminate against him or her:
 - a) in respect of any terms applicable to him or her as a pupil or tenant;
 - b) in the opportunities for training, or gaining experience, which are afforded or denied to him or her;
 - c) in the benefits, facilities or services which are afforded or denied to him or her;
 - d) in the volume or type of work which is offered or denied to him or her;
 - e) by termination of his or her pupillage or by subjecting him or her to any pressure to leave chambers or other detriment.

- 3) It is also unlawful for any person in relation to giving, withholding or acceptance of instructions to a barrister to discriminate against any woman.

Paragraph 305 of the Bar Code of Conduct of England and Wales States that:

A practising barrister must not, in relation to any person (including a lay client, professional client, another barrister, pupil or student member of an Inn of Court) on grounds of race, ethnic origin, sex, religion or political persuasion, treat that person for any purpose, less favourably than he or she would treat other such persons.

By virtue of Paragraph 901 of the Code, a failure to comply with the Code shall constitute professional misconduct rendering a barrister liable to disciplinary proceedings.

3) ORGANISATION FOR EQUALITY

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

The Equality Officer is responsible for:

- Monitoring changes in legislation and updating Chambers' policy and procedures accordingly
- Promotion of this policy within Chambers and externally where appropriate
- Analysis and review of Equal Opportunity monitoring data
- Co-ordination of Annual Equality Review

The Senior Clerk is responsible for:

- Ensuring the fair distribution of unallocated work to pupils and very junior members
- Monitoring work levels and patterns of pupils/juniors on a day-to-day basis
- Production of reports for review by the Pupillage Committee and Equality Officer

The Equality Officer, another nominated Grievance Officer, and Pupil Masters/Mistresses are responsible for:

- Hearing and resolution of grievances relating to equality in the first instance

The Management Committee is responsible for:

- Final resolution of grievances or referral to outside sources if this is not possible

4) DEFINITIONS

A member of chambers, whether tenant, pupil, squatter or member of staff must not act in relation to another member of chambers, to a present or aspiring member of the Bar or to a lay or professional client in a manner which directly or indirectly is either discriminatory, consists of harassment or victimises that person on grounds of race, colour, ethnic or national origin, nationality, citizenship, gender, sexual orientation, marital status, disability, religion or political persuasion, age or sex.

4.1 Indirect Discrimination

Indirect discrimination occurs where:

- a) a requirement or condition is applied equally to everyone but a considerably smaller proportion of one gender or 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.

4.2 Harassment

Harassment creates an intimidating or unpleasant working environment that may affect career advancement and thereby constitute discrimination. It is defined as unwelcome conduct that is offensive to the recipient in that it affects their dignity, where such conduct would not have occurred but for the collective qualities or characteristics of the recipient. 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. A more detailed **Harassment Policy** is attached to this document as **Annex 2**.

4.3 Victimisation

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 Sex Discrimination Act 1975 as amended and the Race Relations Act 1976 as amended and will also breach paragraph 204 of the Code of Conduct.

5) GRIEVANCES

Anyone who considers that they have been subject to discrimination has recourse to **Chambers Grievance Procedure** shown in **Annex 1**. A similar process for anyone who feels they are subject to harassment is in place and is defined in the **Harassment Policy** shown in **Annex 2**.

6) THE SELECTION OF PUPILS AND TENANTS

It is paramount, given the nature of entry into the profession, that the selection criteria for pupillage and tenancy should be free from discrimination. St Ives Chambers therefore undertakes that the recruitment policy towards pupils and tenants should:

- Be transparent, set out in a document which is available to all on request
- Not be subject to change during the selection process;
- Be based on objective and explicit criteria which relate to the demands of the work;
- Save in exceptional circumstances, be applied equally to all potential recruits;
- Be free from assumptions based on stereotypical views or expectations of the behaviour and characteristics of any particular group;
- Not be subject to the will or unexplained veto of any one person alone, but instead reflects the views of a broad spectrum of people.

The selection processes in place within Chambers are described in the following documents:

Members:	Recruitment Policy (Appendix 1A: Chambers Constitution)
Pupils:	Pupillage Policy (Section 8: Pupillage Selection Policy)
Staff:	Quality Manual (Section 5: Personnel Management)

The above documents have been drawn up in accordance with the policy statements listed herein and are subject to review at least annually as part of Chambers management review process.

7) EQUALITY OF OPPORTUNITIES IN CHAMBERS

The allocation 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. Selection of counsel shall be on the basis of the skills and experience required for the particular case. In particular, no pupil or tenant shall suffer discrimination:

- In the arrangements which are made for the purpose of determining to whom it should be offered,
- In respect of any terms on which it is offered, or by a refusal, or deliberate omission, to offer it to him or her.

Furthermore, no pupil or tenant shall suffer discrimination:

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

The above is in full accordance with the legislation set out in Section 2 of this Policy.

8) MATERNITY & PATERNITY LEAVE

Chambers policies for maternity and paternity leave are as follows:

Members: A female tenant's seat in Chambers shall remain open initially for 12 months while she takes maternity leave, during such time the tenant will pay no rent but will continue to pay Clerks' fees on receipts.

A Male tenant is entitled to 7 days rent free paternity leave. If he is to be the full-time carer of a child, he shall be entitled to take paternity leave on like terms to a female tenant taking maternity leave.

Pupils: Pupils terminating their pupillage training due to maternity leave must reapply alongside other applicants should they wish to return to Chambers;

Staff: The maternity and paternity policy for employees is in accordance with the statutory requirements.

Request for 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 meeting minutes for reference.

9) MONITORING

In seeking to identify and eliminate sources of unintended discrimination, chambers shall monitor:

- the recruitment of applicants for pupillages and tenancy (Equal Opportunity Monitoring Forms (EOMF's);
- the allocation of unnamed work between pupils (by the Pupillage Committee using standard reports from the Meridian computer system);
- the treatment of pupils with respect to finance and progression to tenancy (monitored by the Pupillage Committee & recorded on the Pupil Analysis Form);
- the treatment of staff with respect to terms and conditions of employment, pay reviews, training opportunities, promotion and appraisals (by the Equality Officer (as part of the annual review process) by review of information and records relating to such matters).

The monitoring data will be analysed at least once per year 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. However, chambers will not engage in positive discrimination or quotas, as both these practices are unlawful in the United Kingdom.

Equal Opportunities Monitoring Forms (EOMF's) will be issued to applicants of any openly advertised tenancy position. On receipt, the completed EOMF's will be separated from the applicant's communication to ensure their identity is concealed. EOMF's will be forwarded to the Equality Officer for analysis. Those involved in the selection process will not see the EOMF's and will not be party to their analysis. EOMF data for pupils is collated and analysed by the Pupillage Committee. The findings of these analyses are reviewed as part of the annual equality review.

10) COMMUNICATION OF THE EQUALITY POLICY

A copy of this policy will be provided to all members, employees and pupils of Chambers. Awareness training will be provided for existing staff, members and pupils (via meetings) 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.

All new personnel will receive awareness training as part of their induction training. Chambers' commitment to Equality will also be promoted in publicised materials where appropriate such as the brochure, web site and training materials.

ANNEX 1 : COMPLAINTS / GRIEVANCES PROCEDURE

Introduction

Chambers recognises that this is a particularly sensitive area where fear of adverse judgement may prevent a complaint being made in the first place. It is Chambers' policy, therefore, that as far as is practicable, names of complainants shall not be released (save to those persons conducting the investigation and to the person complained against) without their consent. Equally, complainants will not be victimised or suffer detriment because of a complaint made in good faith. The types of circumstances that may give rise to complaint are:

- Selection of pupils, tenants and staff from internal or external applicants
- Conduct of pupillage
- Distribution of work in chambers
- Pressure or instruction to discriminate in the distribution of work
- Harassment or other discrimination originating within or outside chambers
- Treatment of staff in respect of personnel issues.

The Procedure

A person who thinks they are the subject of discrimination, harassment or victimisation may choose to deal with the matter in several ways as set out below.

1) Raising Concerns

Where an aggrieved person wishes to voice a concern and no more, they can approach either the Equality Officer, another nominated Grievance Officer or the person they report to for a confidential discussion. This process is intended to serve as a means of support, advice and guidance without recourse to the informal or formal procedure.

2) Informal complaint

The second option is the lodging of an informal complaint. This can be done orally either to any of the above nominated personnel as deemed appropriate for a confidential discussion.

An informal complaint is designed to act as a method of resolving disputes without the need for a formal investigation to determine the issue. If the complaint concerns the conduct of a person in chambers, it may be that such a person can be made aware that they are causing offence and so cease the offending behaviour. Alternatively, where the complaint concerns a decision taken within chambers, it may be that such a decision can be reviewed or, if appropriate, overturned. An informal complaint may also be made for the purposes of seeking advice.

3) Formal Complaint

The third option is the lodging of a formal complaint. This must be in writing and must set out the allegation(s) complained of so as to enable Chambers to carry out a thorough investigation of all the matters concerned. The complainant has a right to make representations and/or to be independently represented, as does the person whom the complaint has been lodged against. An investigation should not, save in exceptional circumstances, last longer than six weeks from the date of the complaint. Following an investigation, a panel consisting of the Chairman of the Management Committee, the Equality Officer and if relevant, the person complained to in the first instance (e.g. Senior Clerk, Pupil Master or other Grievance Officer) will determine the issue. No member of such a panel should have a conflict of interest between themselves and the complainant. If actual or potential discrimination has been found, remedial steps will be taken immediately. These may include a re-evaluation of a decision, a further opportunity to be considered for an interview or a pupillage, tenancy, brief or post as the case may be, a change in working practices, further advice, training or support, comparative monitoring of work allocation and any other action including disciplinary steps against the offender that appear to the panel to be appropriate.

4) Appeal Process

If dissatisfied with the outcome of the investigation, the aggrieved person may instigate the appeal process. This involves taking the grievance to the appeal panel which consists of two nominated Senior Members (both over 10 years call) who will review all facts and make a final ruling.

5) External Help

Numerous organisations are available for advice and these are listed in **Annex 3** to this Policy. Every complainant has a right to consult with the Bar Council Equal Opportunities Officer for confidential advice and to lodge a formal complaint of professional misconduct with the Bar Council. Complainants of unlawful discrimination have a legal right to apply, subject to time limits, to the County Court or for Chambers' employees, to the Industrial Tribunal.

ANNEX 2 : HARASSMENT POLICY

Statement of Policy

St Ive's Chambers is committed to providing a working environment in which all individuals including members, pupils, mini-pupils, employees, clients and the public are treated with dignity and respect. Chambers aims to promote a working environment that is conducive to the professional growth of its members, pupils and employees and to the promotion of equality of opportunity.

St Ive's Chambers will not tolerate any form of harassment and will take all necessary steps to ensure that its members and employees are not subject to harassment. Harassment constitutes professional misconduct and is prohibited by the Bar Council's Code of Conduct. Harassment on the grounds of sex, race or disability is unlawful under the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

The Scope of the Policy

This policy applies to all members and employees of chambers, to pupils and to mini-pupils. The policy applies to:

- All premises where Chambers' business is conducted;
- All chambers' related activities performed at any other site away from the chambers;
- Any social, business or other function where conduct or comments may have an effect on chambers or relationships within chambers.

Definition of Harassment

The essence of all harassment is that it is unwelcome conduct that is offensive to the recipient. The test is a subjective one and the fact that one person may be able to ignore or deal comfortably with certain behaviour does not mean that it is acceptable if directed at another.

Chambers prohibits any behaviour which causes offence or distress to another and which is perceived by that person as relating to or arising from his or her race, religion, political belief, sex, sexual orientation, age or disability and which constitutes less favourable treatment on such grounds. Harassment may take a variety of forms and includes behaviour:

- Which is unwanted by the recipient and perceived as threatening
- Which causes a hostile or threatening working environment
- Where rejection or submission is used as a basis for decisions concerning the recipient e.g., decisions relating to the award of pupillage, appointment of tenancy, promotion or other opportunities for career development.

The following are examples of behaviour that may amount to harassment:

- Rape; serious physical assault. These are criminal offences and the victim should be encouraged to report the incident to the police
- Requests for sexual favours in return for career advancement
- Unnecessary or avoidable physical contact
- Compromising suggestions or invitations
- Display of pornographic or offensive materials including on computer screens
- Bullying
- Exclusion from social networks and activities
- Jokes or abuse or ridicule relating to a person's sex, ethnicity, sexual orientation, religion, political persuasion, age or whether they have a disability.

Disciplinary action will be taken against any member or employee of chambers found to have harassed a colleague or other person in the conduct of their work.

Resolving Complaints of Harassment

Chambers is committed to providing a supportive environment in which to resolve problems of harassment, and has put in place a number of options for resolving problems. A non-adversarial approach will be adopted. A person therefore subject to harassment may, at their choosing, deal with the matter in a number of ways.

A person experiencing harassment is encouraged to raise a complaint at an early stage, preferably through the informal procedure. Raising a complaint at an early stage is more likely to result in a satisfactory resolution. If left unresolved, the harassment may escalate to the point where the situation becomes much more difficult to deal with effectively.

Any member, employee, pupil or mini-pupil in chambers has the right to bring to the attention of an appropriate person any behaviour that they consider to be contrary to the harassment policy, irrespective of whether they are the recipient of the harassment. A member, pupil or employee of chambers who witnesses behaviour that they consider contravenes the harassment policy should take immediate action to indicate that such behaviour is unacceptable as failure to do so could be interpreted as condoning such behaviour.

Voicing a concern

When an incident of harassment occurs, the recipient should communicate their disapproval and objections immediately to the harasser and request the harasser to stop. If the harassment does not stop or if the recipient is uncomfortable about addressing the harasser directly, he or she may raise the matter informally.

Where an aggrieved person merely wishes to voice their concerns, they can approach the Equality / Grievance Officer or the person they report to for confidential discussion. This is primarily intended to provide support and advice without the matter going any further.

Informal complaint

The second option is the lodging of an informal complaint to any of the persons nominated for hearing grievances in the first instance. This can be done orally with any of the personnel nominated previously. An informal complaint is designed to act as a method of resolving disputes without the need for a formal investigation to determine the issue. If the complaint concerns the conduct of a person in chambers, it may be that such a person can be made aware that they are causing offence and so cease the offending behaviour.

Formal complaint

The third option is the lodging of a formal complaint. This must be in writing and must set out the allegation(s) complained of so as to enable chambers to carry out a thorough investigation of all the matters concerned. The complainant has a right to make representations and/or to be independently represented, as does the person whom the complaint has been lodged against. An investigation should not, save in exceptional circumstances, last longer than six weeks from the date of the complaint. Following an investigation, a panel (as that described in Annex 1) will determine the issue. No member of such a panel should have a conflict of interest between themselves and the complainant. If harassment has been found, remedial steps will be taken immediately. These may include any of the following:

- Formal apology
- Counselling
- Written warning
- Change of work assignment
- Report to the relevant Inn recommending the removal of pupil master/mistress status
- Suspension or discharge of member or employee
- Referral to Professional Conduct Committee (PCC).

In addition to the sanction that may be imposed on a member, pupil or an employee by chambers as part of a complaint resolution, members of chambers who engage in harassment may be liable for damages in the event of a civil lawsuit or may face further sanctions imposed by the Bar Council's Professional Conduct and Complaints Committee.

Appeal Process

The same appeal process as outlined in Annex 1 may be instigated by the aggrieved person should they be dissatisfied with the outcome of the formal investigation.

Standard of Proof

It should be noted that the standard of proof applied might differ according to the complaints process involved. The PCC apply the criminal standard, beyond reasonable doubt, to complaints alleging professional misconduct by a barrister. In industrial tribunals or county courts the civil standard, balance of probabilities, applies.

Victimisation

Chambers is committed to ensuring that no one who brings forward a harassment concern in good faith is subject to any form of reprisal. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be viewed as a disciplinary matter. The raising of such a complaint will not have any adverse consequences for the complainant, particularly in relation to tenancy and promotion decisions.

Pupil Masters/Mistresses

Pupillage is a period of professional training and Chambers regards it as inappropriate for a sexual relationship to develop between a pupil master/mistress or any other member or employee of chambers and a pupil. No member of chambers may participate in decisions concerning a pupil where they are or have been in a relationship with that pupil.

Avenues of Further Redress

In addition to the chambers' procedures there are a number of other avenues of redress. These include:

- Raising a complaint with the relevant Inns Students' Officer about a sponsor or pupil master/mistress. The Inns' complaints process will determine the outcome of such complaints;
- Complaint to the Bar Council's Professional Conduct and Complaints Committee where the alleged harasser is a barrister;
- Take action in the county court or industrial tribunal alleging harassment as a form of unlawful direct discrimination;
- Report the matter to the police where an act of harassment is a criminal offence e.g., assault, indecent assault or rape;
- Through the Bar Council's Equal Opportunities Officers / the Bar Council's Mediation Panel members. Their role is to advise the complainant and, with his or her permission, seek to mediate between the complainant and the alleged harasser. The Panel can be approached in confidence and will aim to achieve an end to the conduct complained of without necessarily finding fault or blame and without the imposition of sanctions.

The Bar Council's Equal Opportunities Officers are available at the Bar Council to offer advice in confidence to any recipient of harassment or to any member of chambers responding to a complaint of harassment.

Other external sources of help are detailed in **Annex 3** to this Policy.

ANNEX 3 : FURTHER INFORMATION

The following organisations may assist in queries or problems:

The Bar's Equal Opportunities Officers

The Race Relations Committee
The Sex Discrimination Committee
The Disability Panel
The General Council of the Bar
3 Bedford Row
London WC1R 4DB
Tel: 0207 242 0082
Fax: 0207 831 9217

Society of Asian Lawyers (SAL)

12 Michleham Down
Woodside Park
London N12 7JM
Tel: 0208 446 4614

Society of Black Lawyers (SBL)

Unit 314 Brixton Enterprise Centre
444 Brixton Road
London SW9 8 EJ
Tel: 0207 274 4000 Ext 346

African, Caribbean and Asian (ACA) Lawyers Group

c/o The Law Society Shop
227/228 The Strand
London WC2R 1BA
Tel: 0207 242 1222

Commission for Racial Equality (CRE)

Elliot House
10/12 Allington Street
London SW1E 5EH
Tel: 0207 939 0000

Bar Lesbian and Gay Group (BLAGG)

c/o The Chambers of Mr Robert Latham
1 Pump Court
Temple
London EC4Y 7AB
Tel: 0207 353 4341 or 0207 583 2012

The Equal Opportunities Commission (EOC)

Overseas House
Quay Street
Manchester
M3 3HN
Tel: 0845 601 5901

Royal Association for Disability and Rehabilitation (RADAR)

12 City Forum
250 City Road
LONDON EC1V 8AF
Tel. 0207 250 3222 Fax. 0207 250 0212

Royal National Institute for the Blind (RNIB)

224 Great Portland Street
LONDON W1N 6AA
Tel. 0207 388 1266 Fax. 0207 388 2034

Royal National Institute for the Deaf (RNID)

105 Gower Street
LONDON WC1E 6AH
Tel. 0207 387 8033 Fax. 0207 388 2346