

FOUNTAIN COURT

EQUALITY AND DIVERSITY HANDBOOK

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DEFINITIONS

In this Handbook, the following terms have the following meanings:

- (1) Award pupil: has the meaning given in paragraph 8.8.
- (2) Chambers: refers collectively to the members of chambers from time to time, save where the context otherwise requires.
- (3) Client: means professional client or lay client.
- (4) Discrimination: (subject to the provisions of the Equality Act 2010) treating a person less favourably than someone else because he or she possesses or is perceived to possess one of the “protected characteristics” listed in the Equality Act 2010 which are race, sex, pregnancy and maternity, gender reassignment, sexual orientation, marriage and civil partnership, disability, age¹, religion or belief (direct discrimination) or adopting or applying a practice, requirement, provision or condition which leads to people from a particular group with one of the protected characteristics being treated less favourably than others, unless such a practice, requirement, provision or condition can be shown to be a proportionate means of achieving a legitimate aim (indirect discrimination).
- (5) Diversity Data: means information relating to the following characteristics in respect of an individual: age, gender, disability, ethnic group, religion or belief, sexual orientation, socio-economic background, and caring responsibilities.
- (6) Diversity Data Officer: refers to the person who is designated as such by the Head of Chambers.
- (7) Equality and Diversity Officer: refers to the person or persons so designated by the Head of Chambers.

¹ If the protected characteristic is age, A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.

- (8) Harassment: includes any unwanted conduct related to sex, race, disability, gender reassignment, religion or belief, sexual orientation or age.
- (9) Head of Chambers: refers to the person holding the position of Head of Chambers under the constitution at the material time.
- (10) Head of Administration: refers to the person appointed as Head of Administration by the Head of Chambers.
- (11) Parental Leave: has the meaning given in paragraph 6.1.
- (12) Member: refers to a person who is defined as a member of chambers under the constitution.
- (13) Objective Pupillage Selection Criteria: has the meaning given in paragraph 8.18.
- (14) Objective Tenancy Selection Criteria: has the meaning given in paragraph 8.43.
- (15) Positive action: measures that Chambers may lawfully take under the sex discrimination and race relations legislation to meet special needs or to train or encourage people from a specific group that is under-represented in particular work.
- (16) Protected characteristics: race, religion and belief, sex, sexual orientation and transgender status, marital or civil partnership status, disability and age.
- (17) Pupil: refers to a funded or unfunded pupil within the meaning of the Pupillage policy.
- (18) Regular practice: has the meaning in paragraph 6.7.
- (19) Senior Clerk: refers to the person or persons so designated by the Head of Chambers.
- (20) Workforce: for the purposes of the Diversity Data Policy, means members of Chambers, pupils, clerks and staff.

1. GENERAL

- 1.1 Chambers is committed to equality and diversity with respect to the provision of our services to Clients, the recruitment and retention of Members, pupils and staff, patterns of working and allocation of work.
- 1.2 This Handbook sets out the policies adopted by Chambers in relation to those areas.
- 1.3 It is the aim of this Handbook to:
 - (1) prevent any and all instances of Discrimination against any actual or prospective Client, Member, pupil or employee and to promote fair treatment.
 - (2) develop and maintain demonstrable excellence in terms of Equality and Diversity, so as to attract and retain the best candidates for pupillage and tenancy and be able to meet the expectations of clients who share that commitment.
 - (3) address (1) and (2) above while recognising that Members are self-employed and without imposing a disproportionate burden on Chambers as a whole.
 - (4) comply with the Equality and Diversity Rules of the Bar Standards Board (BSB) Handbook, the BSB Handbook Equality Rules (Supporting Information), the Bar Council Fair Recruitment Guide, the BSB Pupillage Handbook and the Attorney-General's Equality and Diversity Expectations Statement.
- 1.4 This Handbook will be made available to all Members, pupils, clerks and staff on the Chambers Intranet and via a link on the Chambers website and any material changes to the Handbook will be communicated by the Equality and Diversity Officers in order that everyone understands the policies and their role in relation to them.
- 1.5 Chambers will take reasonable steps to offer training in relation to equality and diversity issues to Members, pupils, clerks and staff from time to time.
- 1.6 Chambers will conduct monitoring of its Workforce, applications for pupillage, membership, or jobs, and work allocation, as more particularly

set out in this Handbook, and will take remedial action where monitoring indicates this to be appropriate.

- 1.7 Chambers will seek to address under-representation by positive action where possible and appropriate.
- 1.8 The primary responsibility for ensuring that the policies set out in the Handbook are upheld is with the Head of Chambers. The role of the Equality and Diversity Officers, the Senior Clerk, pupil-supervisors and members of relevant committees in relation to these policies is more particularly set out below. However, each and every Member, member of staff and pupil is individually responsible for ensuring that their own conduct is not discriminatory and does not involve harassment or victimisation. Moreover, each Member of Chambers must take reasonable steps to ensure that Chambers complies with its obligations under the BSB Handbook in respect of Equality and Diversity. Breach will be treated as a serious matter and may be a ground for disciplinary action.
- 1.9 Where a Member, pupil or staff Member is disabled there is a duty to consider a reasonable adjustment to the terms of this Handbook. A request for a reasonable adjustment should be made to one of the Equality and Diversity Officers or to the Diversity Data Officer.
- 1.10 Chambers will review the policies contained in this Handbook regularly and at least every two years.

2. SERVICE PROVISION

- 2.1 Members, individually, will not discriminate on grounds of disability, gender, sex, sexual orientation and transgender status, marital or civil partnership status, race, colour, ethnic or national origin, nationality, citizenship, religious convictions or beliefs, pregnancy and maternity, or age, by refusing to provide (or deliberately not providing) to a Client any service which that Member provides (or is prepared to provide) to members of the public; or in the standard of service which he or she provides or the manner in which he or she provides that service; or in the terms on which he or she provides a service.
- 2.2 Clerks and staff will, likewise, not discriminate on grounds of disability, gender, sex, sexual orientation and transgender status, marital or civil partnership status, race, colour, ethnic or national origin, nationality, citizenship, religious convictions or beliefs, pregnancy and maternity, or age, as to whether, in what manner or on what terms to offer to Clients the services which Members of Chambers provide (or are prepared to provide) to members of the public.
- 2.3 Chambers recognises that we have a continuing positive obligation to make reasonable adjustments, which requires us to take reasonable steps to change any policy, practice or procedure that makes it impossible or unreasonably difficult for disabled people to make use of our services. The reasonable adjustments policy is set out in Section 5.
- 2.4 Examples of discriminatory service provision include the following: the racial or sexual harassment of a Client; a refusal to accept instructions to act on behalf of individuals or groups defined by their race, sex, sexuality, religion or belief; providing a service that is inappropriate (e.g. timing of a conference with a lay client with childcare responsibilities); failing to take account of the religious needs of Clients in relation to dress, food and drink or religious observance; asking irrelevant questions based upon assumptions about a Client's sexuality.

3. EQUAL OPPORTUNITIES POLICY IN RELATION TO EMPLOYEES

Introduction

- 3.1 Chambers considers all forms of Discrimination to be unacceptable in the workplace.
- 3.2 Chambers will take all reasonable steps:
- (1) to provide equal opportunities throughout employment, including in relation to remuneration, recruitment, training, working conditions and promotion of staff.
 - (2) to see that no employee receives less favourable treatment or is unlawfully discriminated against on grounds of sex, race, age, disability, gender reassignment, sexual orientation, married or civil partnership status, pregnancy or maternity, religion or belief.
 - (3) to see that all employees are made aware of the provisions of this policy and that all employees are required to ensure that the policy is carried out properly.
- 3.3 Chambers will not ignore, or treat lightly, grievances or complaints from employees, or make unwarranted assumptions that the individual is oversensitive about discrimination, but will treat them appropriately in accordance with the grievance procedure in Section 11.

Recruitment, Selection and Promotion

- 3.4 Chambers will take all reasonable steps
- (1) to ensure that information about vacant posts will be circulated appropriately so that it may reach as wide and diverse a group of those who are potentially objectively qualified as is reasonably practicable.
 - (2) to ensure that no recruitment literature or advertisements imply a preference for any one group of applicants unless there is a general occupational qualification which legitimately limits the post to a particular group. Where a particular qualification is legitimately required, Chambers will (as far as reasonably practicable) state that

a substantively comparable qualification obtained overseas is as acceptable as a UK qualification.

- (3) to comply with the Equality and Diversity Rules of the BSB Handbook, the BSB Handbook Equality Rules (Supporting Information), the Bar Council's guidance for implementing positive action provisions under ss 158 and 159 of the Equality Act 2010 and the Attorney-General's Equality and Diversity Expectations Statement.
- (4) to recruit, select and promote employees on the basis of ability, skill and/or qualification, or such other objective and fair criteria as may be appropriate in the particular circumstances, without Discrimination.
- (5) to avoid making any requirements when recruiting, employing or promoting employees which would exclude or detrimentally affect a higher proportion of a particular sex or racial group or otherwise directly or indirectly discriminate against those who possess or are perceived to possess one or more of the protected characteristics.

Training of selection panels

- 3.5 Every member of all selection panels involved in the recruitment of staff must be trained in fair recruitment and selection processes, except in exceptional circumstances.

Training, Facilities and Benefits

- 3.6 Chambers will take all reasonable steps:
- (1) to provide all employees with the appropriate training for their needs, without Discrimination.
 - (2) to make training, facilities and benefits available in a way which avoids indirect discrimination.

Monitoring and Review

3.7 The Equality and Diversity Officers shall regularly review applications for employment and the number and percentages of Members and staff from different groups. Such review shall include:

- (1) collecting and analysing data broken down by race, disability and gender;
- (2) investigating the reasons for any disparities in that data; and
- (3) advising as to appropriate remedial action.

Review

3.8 Chambers will take all reasonable steps:

- (1) to ensure that all aspects of the policy are kept under review in order to ensure the effectiveness of this Equal Opportunities Policy, including by reference to monitoring data and analysis.
- (2) to review, from time to time, its selection criteria for recruitment, training and promotion to ensure they do not constitute and could not lead to Discrimination.
- (3) to keep under review whether any, and if so what, positive action should be taken to redress any under-representation.

Responsibilities

3.9 The Chair of the Administration Committee, the Head of Administration and the Senior Clerk will take all reasonable steps:

- (1) to ensure that this Equal Opportunities Policy in relation to Employees is upheld.
- (2) to see that they are kept informed if behaviour which is contrary to the Equal Opportunities Policy in relation to Employees has taken place, and to ensure it does not occur.

3.10 All complaints must be treated seriously and the failure of the Chair of the Administration Committee, the Head of Administration or the Senior Clerk to carry out his or her duties in respect of equal opportunities may lead to disciplinary action being taken against him or her.

- 3.11 Chambers will take all reasonable steps to see that the Chair of the Administration Committee, the Head of Administration and the Senior Clerk are sufficiently trained in aspects of equality and diversity and sufficiently informed in order to be able to carry out efficiently the Equal Opportunities Policy in relation to Employees and deal with any discriminatory acts.

4. POLICY FOR FAIR ALLOCATION OF WORK OPPORTUNITIES

- 4.1 Chambers will take all reasonable steps to ensure that opportunities for work are allocated fairly between barristers and pupils.
- 4.2 Opportunities for work, in this context, means any occasion when the clerks or a member of chambers may put forward a barrister or pupil for consideration by a solicitor for work which the solicitor has not already allocated to a named individual.
- 4.3 Fairness, in this context, means that opportunities should be allocated so as to allow members an equal opportunity to be considered for them and in a way which is free of unlawful discrimination, including the making of stereotypical assumptions on one or more of the unlawful grounds (sex, race, disability, religion or belief, sexual orientation and transgender status, marital or civil partnership status or age).

Clerks

- 4.4 Chambers will take all reasonable steps to ensure that clerks allocate work opportunities fairly, by providing instruction and training for clerks, and monitoring the allocation of work opportunities.
- 4.5 Clerks will select which barristers to put forward for an opportunity by reference to non-discriminatory criteria, which should be objective and should relate to the work to be done, such as whether their availability and/or charging rate and/or skills and/or aptitudes and/or experience is appropriate to the opportunity. A sufficient record of the nature of the opportunity and who is put forward and why will be kept for monitoring purposes.
- 4.6 If in any case the clerks reasonably consider that it would not be productive to put forward all those barristers available and appropriate for a work opportunity, the clerks will record who is put forward, who is not put forward (so far as reasonably practicable to record this), and the reasons for the selection. The clerks will aim to achieve overall fairness in allocation of work opportunities and equal access to the full range of work undertaken in Chambers.

Selection by barristers

4.7 Where one barrister in Chambers ('the Selecting Barrister', whether or not a silk) may put forward another barrister in Chambers for a work opportunity:

- (1) the clerks must fairly identify those available and appropriate to be put forward to the Selecting Barrister.
- (2) the Selecting Barrister:
 - i. should obtain from the clerks the names of those for consideration for the work; and
 - ii. should suggest to the clerks the name(s) of other barrister(s) (if any) for inclusion in the list for consideration; and
 - iii. must act fairly in suggesting names for inclusion and/or in selecting from the list any barrister to do the work (where the decision is that of the Selecting Barrister) and/or in selecting those to be put forward to the solicitor for consideration for the work.

Training

4.8 Chambers will take all reasonable steps to provide regular training (at least every three years) in equality and diversity matters to barristers, pupils, clerks and staff.

Monitoring

4.9 Chambers shall:

- (1) have appointed an Equality and Diversity Officer or Officers at all times.
- (2) take all reasonable steps to maintain an appropriate database or databases for the purpose of recording data for monitoring which includes:
 - i. those who were put forward and why.
 - ii. the information in paragraph 4.6 above.
 - iii. whether the opportunity was for a named or unnamed individual, the area of work, the type of work initially requested (e.g. written advice/conference/telecon/hearing),

the instructing solicitors, whether the request came from another barrister in Chambers and the clerk who took the initial call.

4.10 The Equality and Diversity Officers shall at least annually review whether opportunities have been allocated fairly. Such review shall include, so far as practicable:

- (1) collecting and analysing data broken down by race, disability and gender;
- (2) investigating the reasons for any disparities in that data; and
- (3) advising as to appropriate remedial action.

4.11 The Equality and Diversity Officer should take all reasonable steps to:

- (1) investigate any apparent anomalies in work opportunities (in which case it may be necessary to identify individuals).
- (2) report to the Head of Chambers on the outcome of their monitoring and any issues arising, and report annually to Chambers.
- (3) where requested, discuss with any individual the outcome of the monitoring of opportunities in relation to that individual, without compromising the confidentiality of data relating to any other individuals.
- (4) investigate any complaints or concerns raised by an individual as to fairness of allocation and fair access to work and refer to the Head of Chambers if they are unable to resolve the matter to the individual's satisfaction.

4.12 Chambers should treat any unequal or unfair treatment of barristers or pupils in the allocation of work as a serious matter and deal with it appropriately so that it does not recur.

Pupils

4.13 It is Chambers policy that pupils are generally not put forward to solicitors for work during their pupillage and the size of the award made to pupils takes this into account. Pupils therefore have no entitlement to be put forward for work in competition with members of chambers (or one

another) during their pupillage. However, if exceptionally, pupils were to be put forward to solicitors for work then this policy would apply equally in relation to the selection of any work opportunities for or by pupils as it does to barristers. References in this policy to pupils are to be read as subject to this paragraph.

5. DISABILITY AND REASONABLE ADJUSTMENTS POLICY

- 5.1 Chambers is committed to making reasonable adjustments in order to remove or reduce substantial disadvantage for disabled people working in Chambers or who are obtaining, or seeking to obtain, legal services from Members. This policy covers and applies to all employees, Members, pupils and Clients.
- 5.2 For the purposes of this policy a person has a disability if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.
- 5.3 Chambers will take all reasonable steps:
- (1) to provide services to the disabled to the same standard as it provides to others, and on terms no less favourable than the terms on which Members and staff supply services to others.
 - (2) not to discriminate against a disabled person whether by
 - (a) treating that person in a less favourable way on account of their disability; or
 - (b) by failing to comply with a duty to make a reasonable adjustment (see below).
 - (3) to consider reasonable adjustments in the following areas to allow for circumstances where a Member, pupil, member of staff, client or other visitor is or may be disabled:
 - (a) practices, policies and procedures;
 - (b) auxiliary aids and services;
 - (c) physical features of the premises (see further below).
 - (4) in recruiting pupils, staff, or tenants, to provide for the fair consideration of applicants with disabilities.
 - (5) to ensure that training of Members, staff and pupils in matters of diversity and equality, extends to disability-related issues

- 5.4 The principal premises we occupy are several hundred years old. Nevertheless, Chambers will take all reasonable steps to make reasonable adjustments to their features and configuration so as to enable the disabled to make use of our services without undue difficulty and to provide assistance where and when required.
- 5.5 All requests for reasonable adjustments will be considered on a case by case basis with the advice and assistance of the Equality and Diversity Officers and where it is not possible to make the adjustment requested Chambers will discuss viable alternatives with the individual affected.
- 5.6 Requests for reasonable adjustments should be made to one of the Equality and Diversity Officers or the Data Diversity Officer.

6. PARENTAL LEAVE POLICY

- 6.1 For the purposes of this Policy, “Parental Leave” is defined as “leave from practice taken by a carer of a child preceding or following birth or adoption. This could be the biological or adoptive parent of either sex, and includes the married, civil, or de facto partner of a biological or adoptive parent”.
- 6.2 Any Member of Chambers shall, for the purposes of caring for his or her child, whether as primary carer or so as to share the responsibilities of childcare, (on reasonable notice to the Head of Chambers) be entitled to take Parental Leave, both in advance of the birth or adoption of the child and at any time and for any period (or periods) up to the expiry of 36 months from the birth or adoption of the child (the “Leave Period”). Subject to the provisions of this paragraph 6 Chambers shall not place any restriction on Members taking Parental Leave from continuing to practise flexibly and/or at a reduced level during the Leave Period.

Remission from Chambers Expenses for primary carers

- 6.3 Any Member who is the primary carer of a new-born or newly adopted child will not be required to pay Members’ Contributions (as defined in Clause 14 of the Constitution) for a period of six months following the birth or adoption of the child (“the Six Month Period”), beginning with the contribution due in the first calendar month following the month of the birth or adoption of the child, as the case may be.
- 6.4 The remission from Members’ Contributions during the Six Month Period is available to such Member irrespective of when (s)he returns to Chambers, or whether (s)he carries out any work during the Six Month Period (provided, for the avoidance of doubt, that (s)he remains the primary carer of a new-born or newly adopted child throughout the Six Month Period). In the event that a Member ceases to be a primary carer during the Six Month Period, (s)he shall be entitled to remission for each month that (s)he remains the primary carer.
- 6.5 The Head of Chambers shall not exercise his or her right pursuant to Clause 14.4 of the Constitution in respect of any Member who obtains a remission from Members’ Contributions hereunder, for a period of 2 years

following the birth or adoption of the child. Subject to that, after the end of the Six Month Period, Chambers Contributions will be charged in accordance with the provisions applicable to all other Members.

- 6.6 Any reference in paragraphs 6.3 to 6.5 above to a “Member” shall apply equally to female and male Members alike. In the event of any issue arising as to whether a Member is a child’s primary carer for the purposes of this Policy, the issue will be determined by the Head of Chambers who will ordinarily be expected to consult with the Equality and Diversity Officers for this purpose (after discussion with the Member concerned as to whether (s)he wishes anyone other than the Head of Chambers involved in the process).
- 6.6A Any Member who is taking Parental Leave but who does not qualify for remission from Members’ Contributions under paragraphs 6.3 to 6.6 above may apply to the Head of Chambers for remission or postponement of such contributions pursuant to clause 14.8.2 of the Constitution.

Retaining Membership of Chambers

- 6.7 Member shall (subject, for the avoidance of doubt, to the provisions of the Constitution regarding termination of a Member’s membership of Chambers) retain his or her membership of Chambers throughout the Leave Period. Subject to the discretion of the Head of Chambers, if the Member does not return to regular practice after the end of the Leave Period, (s)he will cease to be a Member, save in cases where (s)he is away for longer than the Leave Period as a result of consecutive births or consecutive adoptions. For these purposes ‘regular practice’ means holding oneself out to practise as a full Member. If an individual ceases to be a Member in accordance with this paragraph, she(s)he may re-apply to Chambers in the usual way.
- 6.8 The Members’ Contributions payable by the Member during the Leave Period will be calculated in accordance with the provisions applicable to all other Members, subject to paragraphs 6.3 to 6.6A above.

Room Use

6.9 The position regarding the room of a Member who takes Parental Leave is as follows:

- (1) The Member has the right to retain his or her room up to the expiry of the Six Month Period or the first six months of the Leave Period, as the case may be.
- (2) In the event of Parental Leave which continues after the period specified in paragraph 6.9(1), the Head of Chambers will decide, after discussion with the Member concerned, whether to seek to retain his or her room in Chambers empty during that period, having regard in particular to how long (s)he expects to be away and whether there is a shortage of rooms at the time: a decision to retain the room may be reviewed if circumstances change. If his or her room is reallocated, the Member will be offered the best available room on his or her return, and, upon the next reallocation, will be offered a room in accordance with the room allocation policy in force at the relevant time.
- (3) While a Member is away from Chambers on Parental Leave it is understood that his or her room may be used during his or her absence on a temporary basis by other Members, their pupils and mini-pupils and for conferences.

Provisions while a Member is Absent from Chambers on Parental Leave

6.10 Any Member on Parental Leave will be kept in touch with Chambers' matters in his or her absence. A set of guidelines set out below (the Guidelines), which will be reviewed from time to time by the Equality and Diversity Officers, set out in more detail how this aspect of the Policy should be implemented.

Returning to Work Following Parental Leave

6.11 It is intended that Chambers will assist any Member returning to work after Parental Leave in a practical way to get instructions and to re-establish his or her practice. The Guidelines below set out the practical steps that should be taken in respect of any Member returning to work following Parental Leave.

- 6.12 Chambers is receptive and supportive to flexible patterns of working as set out in Section 7 of this Guide.

Grievance Procedure

- 6.13 Any Member who has a concern or complaint relating to this Policy or its implementation should raise his or her concern or complaint with the Head of Chambers – see Section 11.
- 6.14 Chambers will regularly review the effectiveness of this Policy.

Guidelines - steps to be taken in respect of Members on Parental Leave and returning to Chambers after Parental Leave

- 6.15 The following sets out the steps which should be taken in respect of Members on Parental Leave and returning to Chambers after Parental Leave:
- (1) During the period of any Member's absence on Parental Leave the Member should be kept in touch with Chambers' matters. This will include ensuring that the Member receives forwarded post, information about practice developments, training, Chambers' business and social events, whether by email or by any other means.
 - (2) The clerks should keep a record of enquiries made about the Member during absence on Parental Leave.
 - (3) The Senior Clerk should, together with the Member in question, ensure that the Member's return to Chambers is pre-planned and that steps are taken to maximise the prospect of there being work for the Member upon his or her return. It is in the interests of the Member to give as much notice to the Head Clerks of his or her return as possible.
 - (4) The steps referred to in (3) may include:
 - (a) contacting solicitors with whom the Member previously worked and/or who made enquiries about the Member during absence on Parental Leave to inquire about the possibility of new instructions;
 - (b) publicising the Member's return within Chambers; and

- (c) ascertaining whether any Members have suitable work for or in which to involve the returning Member.

- (5) In allocating work to Members, the Senior Clerks and other clerks will, in accordance with their usual practice, give due consideration to the fact that certain Members (including a Member returning to work after Parental Leave) may be short of work.

- (6) In order to rebuild a returning Member's practice, a flexible approach to pricing or to pitching for work of a sort which would not normally be offered to someone of the returning Member's seniority and experience may be adopted. However, any such strategy will only be adopted with the Member's full agreement and where reasonably considered to be necessary for that purpose. It will ordinarily be regarded as a temporary measure whose purpose is to speed up the return to normal practice at a level and rates appropriate to the Member's seniority and experience (unless agreed otherwise, as part of a longer-term strategy on the part of that Member to work in a flexible manner for family-related reasons).

- (7) In the event that a Member wishes to undertake work from home either during or after his or her absence on Parental Leave, the Member will be given the same assistance as any other Member wishing to undertake work from home.

7. FLEXIBLE AND PART-TIME WORKING AND CAREER BREAKS POLICY

Flexible and part-time working (Members)

- 7.1 Chambers is receptive and supportive to flexible patterns of working by Members (including working flexible hours, working part-time and/or working from home) – whether to enable them to manage their family responsibilities or disability without giving up work or for any other valid reasons - insofar as the demands of practice at the Commercial Bar permit, and without prejudice to Chambers’ obligation not to discriminate against a disabled person by failing to make reasonable adjustments (see section 5 of this Handbook).
- 7.2 The IT systems in Chambers enable Members to work from home by giving access to the Chambers’ servers as well as email and the internet (including all subscription services available to Members) and by making it possible for telephone calls to be diverted to numbers outside Chambers.
- 7.3 The clerks, and where relevant other Members (for example Members instructed on the same case as the Member seeking to work flexibly), will take reasonable steps to work together with any Member who wishes to work flexibly (whether in terms of hours or location) and will try to ensure that such flexible working is possible, for example by, involving the Member in matters which are suitable for and compatible with flexible working, by arranging conferences to suit that Member’s hours of working.
- 7.4 Members who seek to work flexibly for reasons associated with family responsibilities will be treated no less favourably than Members seeking to work flexibly for other reasons (for example, part-time judicial office).

Career Breaks (Members)

- 7.5 Chambers is in principle receptive to any Member wishing to take a career break, whether to enable them to manage their family responsibilities or disability without giving up work or for any other valid reasons. However, such arrangements (including whether the Member is to remain a member of chambers, paying Members’ contributions during the career break and if so on what basis, or is to cease to be a Member and reapply on their return) are a matter for the discretion of the Head of Chambers, who will exercise that discretion in a manner that does not discriminate on prohibited

grounds. This is without prejudice to the provisions of the Parental Leave Policy (see section 6 of this Handbook) or to Chambers' obligation not to discriminate against a disabled person by failing to make reasonable adjustments (see section 5 of this Handbook).

Flexible working (staff)

7.6 In accordance with rC110(3) of the BSB's Handbook, Chambers will endeavour to accommodate any reasonable request by a member of staff for flexible working arrangements in order to enable the member of staff to manage their family responsibilities or disability without giving up work but, subject to the Disability and Reasonable Adjustments Policy in section 5 of this Handbook, Chambers reserves the right not to accommodate such a request if the Head of Chambers reasonably considers that doing so would detrimentally affect the ability of the employee to do his or her job to the required standard and within the required timeframe; or would detrimentally impact on the work of Members or of other members of staff; or would result in additional costs to Chambers; or would otherwise adversely impact on Chambers' business. "Flexible working" means one or more of the following: a career break, part-time working, flexible working hours, and working from home. "Family responsibilities" includes caring responsibilities for older, young or disabled dependants or relatives. Nothing in this paragraph limits (1) Chambers' obligation not to discriminate against a disabled person by failing to comply with a duty to make reasonable adjustments (see section 5 of this Handbook) or (2) the statutory right of employees to request flexible working arrangements (as to which see the Staff Handbook).

8. PUPILLAGE POLICY

Introduction

- 8.1 This section (together with, where applicable, the remainder of this Policy) sets out Chambers' Pupillage Policy on the following matters: (i) the number and type of pupillages on offer, (ii) the pupillage funding arrangements, (iii) payment for travelling expenses and compulsory courses, (iv) policies and procedures for the selection of pupils, (v) the roles and duties of pupils, (vi) the roles and duties of pupil supervisors, (vii) the general pattern of pupillage including the checklists used during pupillage, (viii) the method for fairly distributing briefs or other work amongst working pupils, (ix) procedures for providing pupils with an objective assessment of their progress at regular intervals through pupillage, (x) policy and procedure for the recruitment of tenants, (xi) policy and procedures for pupils not taken on as tenants, and (xii) Chambers' complaints and grievance procedures.
- 8.2 Although some of the information is also contained in other documents (principally in the *Notes for Pupils* provided to pupils prior to starting pupillage, our *Guide to Pupillage* brochure and our *Criteria for Selection of Tenants* available on our website to all applicants for pupillage at Chambers), it is convenient to summarise it in this document as well, so that Chambers' Pupillage Policy can easily be found in one document, and then kept under review.
- 8.3 In respect of all matters concerning pupils and the pupillage process, Chambers will comply with:
- (1) The Equality and Diversity Rules at C110-C112 of the BSB Handbook.
 - (2) The other rules about pupillage in the BSB Handbook, including rules C113-C118 on pupillage funding.
 - (3) Part 4 of the Bar Qualification Manual, and the associated Authorisation Framework.

- (4) The Bar Council Fair Recruitment Guide.
- (5) The Bar Council's guide for implementing positive action provisions under ss 158 and 159 of the Equality Act 2010;
- (6) The Attorney-General's Equality and Diversity Expectations Statement.

8.4 All pupils and pupil supervisors will be provided with access to the Equality and Diversity Handbook. Since this Pupillage Policy document covers matters concerned with applications for pupillage (which will not be of particular relevance to those we have already taken for pupillage) as well as matters which do have a bearing upon our current pupils, a separate document called "Notes for Pupils on Pupillage at Fountain Court" will be provided to pupils containing information of relevance to them.

8.5 The Chair or other nominated member of the Pupillage Committee in conjunction with the Pupillage Committee will regularly (and at least annually) review this Policy.

Equality and Diversity

8.6 Paragraphs 1 to 4, 6, 7 and 8 of the Equal Opportunities Policy (Section 3 above) apply to the recruitment and selection of pupils, tenants, established practitioners and mini-pupils *mutatis mutandis*.

8.7 Reference should be made to the following paragraphs of this Policy in particular on the issues of equality and diversity:

- (1) paragraph 8.3 above, on the overriding obligation to comply with the Equality and Diversity Rules at section D1.2 of the BSB Handbook in respect of pupillage matters;
- (2) paragraphs 8.11 to 8.14 below on issues of Recruitment;
- (3) paragraphs 8.15 to 8.20 below on Mini-Pupillage;
- (4) paragraphs 8.21 to 8.23 below on Finance and Training;

- (5) paragraphs 8.25 to 8.29 below on matters of Selection of Pupils;
- (6) paragraphs 8.66 to 8.68 below on the issue of selection of Tenants (and, where relevant, distribution of work);
- (7) paragraphs 8.71 to 8.74 below on the subject of Record Keeping and Monitoring;

Number and Type of Pupillages on Offer and Advertisement of Pupillages

- 8.8 Chambers aims to take up to four twelve months pupils per pupillage year, each of whom we select by reference to the Objective Pupillage Selection Criteria referred to below. It is from these pupils that Chambers generally looks to recruit one or more new tenants each year at the end of their pupillages. Although Chambers does not normally accept more than four pupils in any given year, in an exceptional year it may take more than this.
- 8.9 Chambers does not offer pupillages or training/assessment other than twelve month pupillages (for example probationary periods prior to tenancy).
- 8.10 The details of pupillages available at Chambers are publicised on Chambers' website (www.fountaincourt.co.uk). Chambers is a member of the Pupillage Gateway. Details of funded pupillages are therefore also contained on the Pupillage Gateway website <http://www.pupillagegateway.com/> and in the Bar Council's *Pupillage and Awards Handbook*. Chambers also regularly advertises its pupillage awards in trade publications such as *Target Law*.

Recruitment

- 8.11 Advertisements and announcements in respect of Chambers pupillages will carry statements that Chambers:
- (1) Encourages applications from groups which are under-represented in Chambers;
 - (2) Complies with the Equality and Diversity Rules and Fair Recruitment Training Rules in the BSB Handbook;
 - (3) Adheres insofar as is reasonably possible to the BSB Fair Recruitment Guide in force at the relevant time (which is designed

to assist chambers in achieving best practice and fairness in recruitment and selection at the Bar);

(4) Will make reasonable adjustments for disabled candidates.

8.12 Chambers is committed to diversity and equality in its recruitment process. In accordance with paragraph 3.4 of the Attorney-General's Equality and Diversity Expectations Statement and s. 158 of the Equality Act 2010, Chambers will take and support all appropriate and necessary positive action in order to address issues of underrepresentation of those possessing a protected characteristic in Chambers.

8.13 The Chair of the Pupillage Committee and the Equality and Diversity Officers will review and evaluate positive action programmes, together with the issue of positive action generally, at least once annually, in order to assess:

(1) The effect and benefit of each positive action programme;

(2) Whether or not each positive action programme has achieved its aim and in the event that that aim has been achieved, whether there is a continuing need for that positive action programme;

(3) What further or different forms of positive action should be adopted by Chambers.

8.14 Following any positive action, Chambers will ensure in accordance with paragraph 3.4 of the Attorney-General's Equality and Diversity Expectations Statement, that:

(1) All candidates for pupillage compete with all other applicants on equal terms;

(2) Appointments to pupillage are based on merit alone.

Mini-pupillages

8.15 It is now a requirement that pupillage applicants have, save in exceptional circumstances, completed an assessed mini-pupillage before applying for pupillage.

8.16 Applications for mini-pupillage are made on a form accessed from Chambers' website. There are three main periods in which mini-pupillages are offered: Christmas, Easter and Summer, and three corresponding

application deadlines following which applications for each period are considered together. The applications are first considered on paper on an anonymised basis by a sub-committee of the Pupillage Committee. A selection of those candidates will be invited for a short interview in Chambers with two members of Chambers (usually including one Pupillage Committee member). The interviews usually take place in Chambers. However, arrangements can be made for interviews to be conducted by telephone or video link where appropriate.

8.17 In selection mini-pupils the **Objective Mini-Pupillage Selection Criteria** will be applied:

- (1) Academic and intellectual ability;
- (2) Advocacy and communication skills, including: clarity of expression, ability to think and respond under pressure, and potential capacity as an advocate;
- (3) Potential to be a successful self-employed practitioner at the Commercial Bar, including: interest in the type of work done by Chambers, determination, resilience and integrity.

8.18 Mini-pupillages last two or three days. One of the days is taken up by completion of an assessed piece of written work. Each assessed piece of written is marked on an anonymised basis by two members of the Pupillage Committee, and the scores are averaged to produce a final mark.

8.19 Chambers pays £150 towards each mini-pupil's expenses upon completion of their mini-pupillage.

8.20 Chambers will positively encourage applications for mini-pupillage from groups which are under-represented in Chambers.

Finance for Pupillage

8.21 Chambers provides funding for each of its pupils. It is ordinarily possible to draw down a portion of the award prior to starting pupillage. Payment of the award is made monthly in advance.

8.22 We also pay the cost of any compulsory courses which pupils are required to attend during pupillage, and we ordinarily cover reasonable travel expenses where pupils are required to travel with their pupil supervisors.

External Training

8.23 In accordance with paragraph 3.4 and paragraph 3.5 of the Attorney-General’s Equality and Diversity Expectations Statement, Chambers will ensure that:

- (1) Pupils receive training on diversity and equality, which covers:
 - (a) Legal obligations and good practice;
 - (b) The reasoning and benefits behind positive action;
 - (c) All of the protected characteristics; and that
- (2) Equality and diversity issues are integrated into other training provided to pupils.

8.24 Pupils selected for tenancy are strongly encouraged to attend the Keble Advocacy Course organised annually by the South Eastern Circuit (or a comparable course), for which Chambers will also pay, in their first four years of tenancy.

Procedures for the Selection of Pupils

8.25 Chambers is a member of the Pupillage Gateway. When selecting pupils, Chambers is looking to assess the following (“**the Objective Pupillage Selection Criteria**”):

- (1) Academic and intellectual ability;
- (2) Advocacy and communication skills, including, clarity of expression, ability to think and respond under pressure and potential capacity as advocate;
- (3) Potential to be a successful self-employed practitioner at the Commercial Bar, including interest and understanding in the type of work done by chambers, potential ability to work with members of chambers, solicitors, clients, staff and other pupils; determination; resilience and integrity.

8.26 It is now a requirement that pupillage applicants have, save in exceptional circumstances, completed an assessed mini-pupillage before applying for pupillage (see above paragraphs 8.15 – 8.20). Those pupillage candidates who have not yet applied for a mini-pupillage before making a pupillage

application will be treated as having applied for an assessed mini-pupillage and the procedure set out above will be followed.

- 8.27 A sub-committee of the Pupillage Committee (consisting of at least two members) reviews all the pupillage applications and completes a ‘first sift’ on paper on an anonymous basis. That sub-committee selects the applicants to call for a final interview on the basis of the Objective Pupillage Selection Criteria, and after considering the applicant’s application form, references, and materials relating to that candidate’s mini-pupillage.
- 8.28 The questions will follow a standardised form and will include questions about the contents of the applicant’s completed Pupillage Portal application form, as well as a short advocacy exercise which the candidate is given a short period of time to prepare. All applicants are assessed on the basis of the Objective Pupillage Selection Criteria.
- 8.29 Chambers positively encourages applications from candidates within groups which are under-represented in Chambers. Chambers will also positively facilitate the recruitment of disabled candidates (in accordance with paragraph 3.4 of the Attorney-General’s Equality and Diversity Expectations Statement). Chambers will make all reasonable adjustments (in accordance with the Disability Policy in Section 5 above) for any disabled candidate and subsequently during pupillage. The Chair of the Pupillage Committee will regularly review recruitment and marketing literature to ensure they contain appropriate references to disabled access.

Credential Checking/ICO registration

- 8.30 Before starting pupillage, successful applicants are required to provide to Chambers evidence that: (i) they have satisfactorily completed the academic and vocational training required within 5 years before starting pupillage; (ii) they are a member of an Inn of Court; (iii) they have been Called to the Bar; (iv) where relevant, they have obtained the necessary immigration visas and they have the right to work in the UK; and (v) where relevant, they have obtained waivers from the BSB. It is also the responsibility of pupils to register with the Information Commissioner’s office (ICO) and we recommend that this is done soon after starting pupillage.

- 8.31 Pupils are informed about the need to provide the information set out above in the ‘Note for Pupils on Pupillage at Fountain Court’, which is sent out to pupils before their pupillage starts.

Training of selection panels

- 8.32 In accordance with paragraph (c) of rule C110 of the BSB Handbook, every member of all selection panels involved in the recruitment of pupils and tenants must be trained in fair recruitment and selection processes, except in exceptional circumstances.

Pupillage Training Process

(i) General Pattern of Pupillage

- 8.33 During pupillage at Chambers, we aim to give a pupil a thorough training in the types of work done by Chambers. Pupils spend the first and last three months with the same pupil supervisor (who is primarily responsible for seeing that the pupil is getting proper experience) and the middle six months with two different pupil supervisors. No pupil supervisor has more than one pupil sitting with him or her at any one time.
- 8.34 For at least the first two months of pupillage, Pupils will generally only work for their pupil supervisor, and this work will not be formally assessed, as this is considered to be an important settling-in period. After the first two to three months of pupillage, Pupils will also be called upon to do specific pieces of work for other members of Chambers. It is in this way that pupils will get to know, and be known by, Chambers generally, and experience the full spectrum of work in Chambers. We also regard this as an important part of the process of making tenancy decisions on the basis of the Objective Tenancy Selection Criteria, on as fair and informed a basis as possible. If pupils wish to see more of a particular area of work, this can usually be arranged.

(ii) Role and Duties of Pupils

- 8.35 A pupil at Chambers will spend much time doing paperwork, e.g., reading papers and preparing pleadings and advices, and notes on specific questions of law. This work is reviewed and discussed with the relevant pupil supervisors or other members of Chambers for whom the work is provided. This is the principal method of training for pupils. Pupils should receive oral feedback on every piece of work produced, and will generally

be sent the final version of the document prepared by the relevant member of Chambers, in order to build on the oral feedback provided.

- 8.36 A pupil will usually accompany his or her pupil supervisor to trials, arbitrations, and appeals, and more frequently to interlocutory hearings. Pupils can also expect to attend and observe their pupil supervisor's conferences with solicitors and lay clients (including teleconferences). During working hours in Chambers pupils are expected to dress as if attending unrobed court hearings, namely business suits. Whilst pupils do not participate in conferences (and should not volunteer opinions of their own during the conference), they can expect to be asked by their pupil supervisors about the subject matter of the conference, either before or afterwards. It is emphasised that information which pupils acquired from reading their pupil supervisor's papers, and from attending conferences, or which is otherwise obtained in confidence, is to be treated as strictly confidential.
- 8.37 After the first two to three months of pupillage are completed, pupils can expect to be given pieces of work to do for members of Chambers, other than their own pupil supervisor (this being one of the processes by which we try to ensure that members of Chambers are acquainted with the work of each pupil, so that tenancy decisions can be taken on as fair and informed a basis as possible on the basis of the Objective Tenancy Selection Criteria described below). Working for other members of Chambers, however, should always be arranged through the pupil supervisor concerned, and should not occur at all during the first two months of pupillage.
- 8.38 On completion of the piece of work, and discussion of it with the pupil concerned (if appropriate), the member completes a pupillage assessment form by reference to the Objective Tenancy Selection Criteria.
- 8.39 Chambers has a Pupillage Training Programme which incorporates the matters formerly contained in the BSB's specialist Commercial and Admiralty Checklist, to assist in ensuring that pupils are trained to meet the competencies in the context of the core elements of commercial practice. The work which pupils can expect to undertake during pupillage is varied and challenging.
- 8.40 Pupils are expected to keep a note of the work they have seen or done so that the checklist in the Training Programme can be completed. On changing pupil supervisors, the list of work completed should be reviewed

with the new pupil supervisor. Periodic pupillage reviews with members of the Pupillage Committee will also consider the range and types of work that pupils have been asked to complete.

- 8.41 One consequence of the nature of the work at Chambers is that it is unusual for pupils to get work of their own (and, in practice, never before the decision has been made to offer a tenancy). However, pupils are able to undertake some work on their own following the tenancy decision.

(iii) Flexible Working and Holidays

- 8.42 In general terms, a pupil would not normally be expected to be in Chambers before 9.00am or after 7.00pm, or to work at weekends. However, pupils should liaise with their pupil supervisors at the start of each seat about their preferred working hours.
- 8.43 Conferences after court will sometimes not finish before this time, and a pupil supervisor may occasionally ask a pupil to do a piece of work which could involve working late, or during some part of a weekend. A pupil can expect to be given adequate notice of this, and will not be expected to work late, or during a weekend, if this would interfere with other commitments. It is difficult to predict all eventualities, and pupils may find from time to time, like most self-employed barristers, that they have to work in the evenings or at weekends to deal adequately with their workload.
- 8.44 Pupils are advised generally to work in their pupil supervisor's room, since this gives pupils the opportunity to observe the various aspects of a practice from close quarters and to attend court and conferences with their supervisor (see 8.36 above). We consider that this arrangement provides pupils with the best opportunity to develop and satisfy the BSB's Professional Statement for Barristers' core competencies 3 (Working with others) and 4 (Management of practice). Moreover, Chambers is conscious of the need to ensure protection of personal and client data, such that pupils are generally discouraged from taking such information out of chambers (in accordance with Chambers' Information Security Policy).
- 8.45 However, Chambers also offers flexible working arrangements to enable pupils to work in other locations and at other times. This is facilitated by:
- (1) Access to Citrix or Chambers virtual private network: Pupils will be granted access to Chambers' remote network, which enables to pupils

to access Chambers' online resources and their Chambers' electronic documents remotely. This facility is available 24/7. This is in addition to remote access to the pupil's Chambers' email account.

- (2) Pupils may also conduct legal research and other work in Chambers' library: the library has several PC workstations for use by members and pupils, with access to the online resources. The library is open 24/7.
- (3) Pupils often conduct legal research in the Inn libraries, and (less regularly) in the Institute of Advanced Legal Studies library.
- (4) Pupils will be provided with an access card to chambers, so that they are able to let themselves into the building 24/7.

8.46 Further, if a pupil has a disability and requires reasonable adjustments to be made during pupillage, the pupil is encouraged to contact the Head of Administration in the first instance before the start of pupillage, or raise the matter with his or her pupil supervisor. (See also section 5 of the E&D Handbook for Chambers' policy on disability and reasonable adjustments.)

8.47 By moving to three different pupil supervisors and working for numerous other members of Chambers during the assessed period, pupils will benefit from observing the different practices of many members of Chambers. However, if pupils wish to see more of a particular area of work, this can usually be arranged.

8.48 Chambers is reasonably flexible about the timing of holidays. However, this is another matter which a pupil should discuss with his or her pupil supervisor to see if there are any particular periods (such as when the pupil supervisor will be involved in a trial which may be of particular interest) when it would be desirable for the pupil not to be away from Chambers. The BSB guidelines state that it is good practice for pupils to receive a minimum of four weeks' leave per annum, i.e. 20 working days not including Bank Holidays. Chambers will provide at least this minimum.

8.49 Pupils requiring a short period of sick leave or leave for other reasons (see further below) should notify their pupil supervisor. If a pupil has an extended number of days' sick leave, or other leave, the pupillage may need to be extended in accordance with BSB guidelines. Whether the period of leave is "extended" is to be determined by the pupil supervisor.

Pupils must notify the BSB of the new date for completion of the pupillage, as notification of a material change in pupillage arrangements.

- 8.50 Other reasons for pupils requiring a period of leave may include extenuating circumstances such as personal problems and bereavement.

Parental Leave Policy for Pupils

- 8.51 Upon application, Chambers may defer the commencement of pupillage of prospective pupils who wish to take parental leave prior the commencement of pupillage for a period of up to 12 months.
- 8.52 If a pupil wishes to take parental leave following the birth or adoption of a child, chambers may defer completion of the remainder of pupillage, subject to the requirements of the Bar Qualification Manual.
- 8.53 All parental leave arrangements should be discussed with the pupil's supervisor and the Chair of the Pupillage Committee.
- 8.54 The pupil, with the assistance of their pupil supervisor, shall be responsible for obtaining written permission from the BSB in accordance with the requirements of the Bar Qualification Manual.
- 8.55 In the event of deferral and during the pupil's 'break' period, the pupil's supervisor shall be their point of contact with Chambers.
- 8.56 Chambers shall to the extent reasonably practicable accommodate pupils' requests for flexible working hours in order to allow for childcare commitments. Such working hours should be discussed with the pupil's supervisor in order to ensure that the pupil is able to complete the work that is required of him or her. Pupils should be assured that any need to work flexible hours for reasons of childcare will not in any way affect their prospects of being recruited as a tenant pursuant to the Chambers' policy on recruitment of tenants from pupils.
- 8.57 For the duration of the parental leave, Chambers will provide all statutory parental leave benefits, including the provision of statutory parental leave and pay.

Role and Duties of Pupil Supervisors

- 8.58 The formal duties of pupil supervisors are set out in rule C2-1 of the Bar Qualification Manual Chambers is committed to ensuring that our pupil

supervisors take these responsibilities seriously. Pupil supervisors and pupils are also expected to adhere to the Chambers' Pupillage Training Programme and in particular to assist with completing the Competencies checklist.

- 8.59 In the first few days of pupillage, pupil supervisors are expected to take especial care to show their pupils around Chambers, to introduce them to as many members of Chambers and staff as possible, and to explain to them the working routine in Chambers. Pupil supervisors are generally expected to work in Chambers while a pupil is sitting with them.
- 8.60 In addition to this, the Chair of the Pupillage Committee (usually with one or two other members of the Committee) also meets the new pupils in the first few days of their pupillage to welcome them to Chambers, and answer any further questions which they may still have. A welcome event is also held either in the summer before the new pupils start their pupillages, or in the first few weeks of the new pupillage year, to enable pupils to meet as many members of Chambers and staff as possible in an informal context. Pupils are also encouraged to attend periodic Chambers' Tea events, which provides further opportunities to meet members of Chambers throughout the pupillage year.
- 8.61 After the pupil has completed the first two to three months of pupillage, pupil supervisors are expected to arrange for their pupils to do work for other members of Chambers as well as for themselves. It is the pupil supervisor's duty, however, to ensure that work is only given to the pupil through themselves; that the work given is suitable for the pupil to undertake; and that sufficient notice of the work is given to the pupil concerned. It is also the pupil supervisor's duty to ensure that pupils are not given work by other members of Chambers during the first two months of pupillage, since we regard this as an important settling-in period during which the pupil is best served by working closely with his or her pupil supervisor alone.
- 8.62 Pupil supervisors are also required to ensure that their pupils develop and satisfy the BSB's Professional Statement for Barristers' core competencies. Pupil supervisors should continue to have regard to the Chambers' Pupillage Training Programme and checklist to assist in ensuring that pupils are trained to meet the competencies in the context of the core elements of commercial practice (such that they have been exposed to the main types of commercial work). Pupil supervisors and

their pupils are expected to conduct a formal review at least twice during the seat in order to assess the progress made in relation to the checklist. The pupil supervisors must also sign the form declaring the pupil's satisfactory completion of the non-practising period, which the pupil must submit immediately to the BSB. A copy of the form should be retained and given to the Secretary of the Pupillage Committee.

Objective Tenancy Selection Criteria

8.63 The criteria used to assess pupils and select tenants are as follows:

1. Quality of written work, including:
 - a. Quality of legal research and analysis;
 - b. Clarity;
 - c. Persuasiveness;
 - d. Judgement; and
 - e. Presentation and structure.
2. Oral advocacy and communication skills, including:
 - a. Clarity;
 - b. Persuasiveness;
 - c. Ability to anticipate and address opposing arguments;
 - d. Ability to think and respond under pressure.
3. Potential to build a successful practice at the Commercial Bar, including:
 - a. Ability to interact and work well with clients, staff and other members of chambers;
 - b. Organisational skills, ability to meet deadlines, and success in working under pressure.
 - c. Potential to generate repeat work;
 - d. Resilience; and
 - e. Integrity

Methods for Fairly Distributing Briefs and Other Work

8.64 As noted above, the nature of the work at Chambers is such that it is unusual for pupils to get work of their own during pupillage. To this extent, the question does not normally arise of distributing remunerated work to pupils. In practice, even when pupils are given work of their own,

it is only after the pupil knows that he or she is to be taken on as a tenant; and, in those circumstances, work would be distributed in accordance with the normal equality practices of Chambers.

Procedures for Providing Pupils with an Objective Assessment of their Progress

- 8.65 Chambers has a number of ways of providing pupils with an objective assessment of their progress at regular intervals throughout pupillage:
- (1) In the first place, pupil supervisors are encouraged to review and discuss their pupils' work with them, and to provide feedback about progress to their pupil on a rolling basis.
 - (2) Secondly, pupils should receive oral feedback from all members of Chambers for whom they work in accordance with the procedure described in paragraph 8.35 above.
 - (3) The formal review sessions between pupil and pupil supervisor (two per seat) referred to in paragraph 8.62 above should be used by the supervisor to give feedback as to the pupil's progress in relation to the Competencies.
 - (4) The Pupillage Committee periodically asks all pupil supervisors to report in writing on their pupils' work to date, with a view to the Chair and/or Deputy Chair of the Pupillage Committee (with one or two other members of the Committee) meeting each pupil individually, and discussing with him or her the progress that is being made. These meetings normally take place in or about January and in around March/April of each year.
 - (5) Thirdly, in May/June of each year, the Pupillage Committee holds a meeting to consider the work of each of those pupils by reference to the Objective Tenancy Selection Criteria. In the light of the matters raised at the meeting, the pupil supervisors or members of the Pupillage Committee may, as necessary, then meet with the pupils again, to discuss progress and identify any areas of concern about their work which have been noted.

Policy and Procedure for Recruitment of Tenants

- 8.66 Chambers prefers to take on at least one newly qualified tenant a year, chosen from the pupils. We may take on more than one such tenant, and

have done so frequently in recent years. However, there is no guarantee that in any particular year a new tenant will be taken on.

- 8.67 Offers of tenancy are generally made in June or July of each year. Selection is made by reference to the Objective Tenancy Selection Criteria. During the course of the year, written reports are given by members of Chambers to the Pupillage Committee on the work performed by each pupil. The reports take the form of a standard assessment form which asks the member to assess the pupil's work by reference to the Objective Tenancy Selection Criteria (and also to confirm that he or she has given oral feedback which broadly corresponds with the content of the form). Each pupil supervisor also provides to the Pupillage Committee an assessment of the pupil(s) who have sat with him or her during the year. Thereafter, the Pupillage Committee reviews all these reports at a meeting to which pupil supervisors can be invited for the purpose of answering any questions which arise in relation to any matters relevant to the Objective Tenancy Selection Criteria which arise out of, or are not otherwise covered by the written reports providing an oral review of the pupil's work. Following that meeting a recommendation is made by the Pupillage Committee to Chambers, which is considered at the annual Chambers meeting in June or July.
- 8.68 Particularly in a year in which two or more pupils are taken on as tenants, Chambers may seek to "stagger" the start of practice, and ask one or more pupils to spend some time gaining practical experience in some relevant area of work (such as, for example, by participating in the Commercial Court's or Court of Appeal's judicial assistants programme, or by spending a few weeks or months working in a firm of solicitors).

Policy and Procedure for Pupils not Taken on as Tenants

- 8.69 Chambers recognises a responsibility towards those pupils who are not offered tenancies to assist them in making applications to other chambers doing good quality work. Pupils in this position are usually successful in applications to one or more chambers. Ultimately, however, the responsibility for finding a place elsewhere must inevitably be with the pupil. It is not Chambers' practice to permit "squatting" in Chambers, or to offer further periods of training or assessment following completion of a 12 month pupillage.

Chambers' Complaints and Grievance Procedure

8.70 Pupils have the right to make complaints in relation to the pupillage process. A modified formal complaints and grievance procedure is applicable to pupils. This is set out in section 11 of the Equality and Diversity Handbook. In summary, this procedure consists of: (1) a first instance procedure, which is dealt with by the Chair of the Pupillage Committee; and (2) an appeal, which takes the form of the grievance procedure applicable to members of Chambers generally. It is applicable to all kinds of complaint or grievance, including complaints of discrimination or harassment. However, pupils are also free to raise any grievance or complaint less formally with their pupil supervisor or any member of the Pupillage Committee if they would prefer to do so.

Record keeping and monitoring

8.71 The agreed retention periods for records of pupillage and mini-pupillage applications are set out in Chambers' published Records Retention Schedule

8.72 The Chair of the Pupillage Committee will analyse the monitoring data with respect to pupillage annually and will evaluate the results accordingly in consultation with the Equality and Diversity Officers.

8.73 The data will be analysed (as required by the BSB Handbook and in accordance with Chapter 13 of the Fair Recruitment Guide 2015) with the aim of:

- (1) Investigating the reasons for any disparities in that data;
- (2) Taking corrective steps where there are significant and unjustifiable differences between those applying and those offered mini-pupillage, pupillage and/or tenancy (such steps being aimed at removing or reducing the disadvantage experienced by any group);
- (3) Taking steps, including the setting of measurable objectives where necessary in terms of gender, ethnic and disability representation to help secure a more representative Chambers, provided all such steps are compliant with sections 158 and 159 of the Equality Act 2010 and the Bar Council's Guidance for implementing positive action provisions under sections 158 and 159 of the Equality Act 2010;
- (4) Focusing recruitment efforts on addressing underrepresentation;

(5) Taking positive action where necessary to address any significant underrepresentation of any particular group;

(6) Reporting progress in addressing underrepresentation.

8.74 Chambers also encourages feedback from pupils on the pupillage process, and in order to facilitate this a member of the Pupillage Committee holds a meeting with new tenants on their experience of pupillage at the conclusion of the pupillage year.

Pupil Misconduct Policy

8.75 Pupils are referred to the Pupil Misconduct Policy which is contained in the E&D Handbook.

9. HARASSMENT POLICY

9.1 Chambers is committed to a working environment in which all Members, pupils, employees, Clients and others temporarily in Chambers (such as mini-pupils) are treated with dignity and respect and which is free from victimisation, bullying and Harassment for all its employees, Members, pupils, Clients and others temporarily in Chambers. Chambers recognises the harmful effect victimisation, bullying and other forms of Harassment can have on individuals and is committed preventing the stress, humiliation and intimidation which can arise from such acts. Harassment may take many forms including:

- Conduct which is unwanted by the recipient and perceived as hostile and threatening
- Conduct which gives rise to a hostile or threatening work environment
- Conduct which creates an atmosphere in which it is feared that rejection or submission will be used as a basis for decisions which have an impact on the recipient at work such as an allocation of work or tenancy decision

The following are examples of types of behaviour which may amount to harassment:

- Physical or sexual assault
- Requests for sexual favours in return for career advancement
- Unnecessary physical contact
- Exclusion from social networks and activities or other forms of isolation
- Bullying
- Compromising suggestions or invitations
- Suggestive remarks or looks
- Display of offensive materials, including on a computer screen
- Tasteless jokes or verbal abuse, including any sent by email
- Offensive remarks or ridicule
- Dealing inappropriately or inadequately with complaints of harassment

9.2 Any form of unwanted conduct which has the aim or the effect of creating a humiliating or offensive environment for another person or diminishing a person's dignity is unacceptable in these Chambers and will not be tolerated or condoned. The sort of conduct which will not be tolerated or condoned here includes assault (physical or sexual), bullying, verbal abuse,

offensive remarks or jokes, the sending or display of offensive materials, isolation or exclusion, unnecessary physical contact or suggestions, any form of Discrimination or victimisation of someone who has made a complaint in good faith.

- 9.3 Any and all employees, Members, pupils, Clients and others temporarily in Chambers who experience Harassment have a right to complain. A complaint of Harassment may be made informally or formally under the Chambers Grievance Procedure (see Section 11). Every effort will be made to deal with any such complaint with the appropriate sensitivity and as promptly as possible.
- 9.4 Harassment is unlawful under the Equality Act 2010. It is also misconduct for employees and a breach of the BSB Handbook for Members. Chambers will treat violations of the harassment policy as a disciplinary offence.
- 9.5 Chambers is committed to ensuring that no-one who makes an allegation of Harassment in good faith should be subjected to any detriment as a result. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be treated as a disciplinary offence.
- 9.6 Chambers will from time to time offer training for those in managerial and supervisory roles on how to keep the working environment free of Harassment and how to deal with it should it occur.
- 9.7 There is a confidential direct line to the Bar Council's Equality and Diversity Advisers which is open to pupils as well as practising barristers, and enables people claiming Harassment, or are experiencing discrimination, to speak in confidence and gain advice. (See details in Section 12 below).

10. DIVERSITY DATA POLICY

10.1 This is the Diversity Data Policy for Chambers

10.2 The name of the Diversity Data Officer is Julie Parker.

Collection of Diversity Data

10.3 Chambers' workforce (i.e. members, pupils², staff) are given the opportunity to provide their Diversity Data for collection in accordance with the Bar Standards Board's requirements. The Diversity Data Officer is responsible for arranging and supervising the collection of Diversity Data and its publication in summary form in accordance with the BSB Handbook Equality Rules and Supporting Information.

Why Diversity Data is collected

10.4 Individuals have the opportunity to provide their Diversity Data in order for the Diversity Data Officer to publish an anonymous summary of such data. This provides transparency concerning recruiting and employment activities across chambers and analysis of Diversity Data encourages a strong, diverse and effective legal profession.

Please note: You are not obliged to provide your Diversity Data. You are free to provide all, some or none of your Diversity Data.

How Diversity Data is collected

10.5 Diversity Data will be collected through the completion of the Diversity Data Questionnaire which will be provided to you in hard copy format. It should be returned in a sealed envelope to the Diversity Data Officer (Julie Parker).

10.6 You will be provided with a copy of the form (through internal mail), together with a copy of the consent form which you must complete if you wish to provide your Diversity Data.

Keeping Diversity Data secure

² Including any assessed mini-pupils.

10.7 All Diversity Data that is collected from individuals will be kept securely. The Diversity Data Officer shall put the following security measures in place to protect Diversity Data:

- For electronic documents containing Diversity Data:
 - Password-protected
 - Stored on secure server folder
 - Deleted at source from the server in accordance with the destruction policy (paragraph 15 below)
- Paper documents with Diversity Data: stored in locked cabinets until destroyed through security shredding in accordance with the destruction policy (paragraph 15 below).

10.8 The Diversity Data Officer will not share Diversity Data with any third parties save for Head of Chambers, Equality and Diversity Officers and Committee Chairs as reasonably required for them to discharge their duties.

10.9 Should anyone access or disclose Diversity Data accidentally or intentionally when they are not authorised to do so, they must notify the Diversity Data Officer immediately.

Anonymising Diversity Data

10.10 The Diversity Data Officer is required to anonymise Diversity Data as soon as reasonably practicable before publishing it in summary form. We will securely anonymise Diversity Data by collating it using appropriate categories.

Publication of the anonymised summary of Diversity Data

10.11 The Diversity Data Officer is required to publish Diversity Data in an anonymised summary format in accordance with the requirements of the Bar Standards Board. The summary will break down the information in a way which categorises each diversity characteristic against job category and seniority. The summary will be published online at www.fountaincourt.co.uk

10.12 Diversity Data relating to sexual orientation and religion or belief will **not** be included in the anonymised summary format for publication unless there is consent from each member of the workforce.

10.13 Where there are fewer than 10 (ten) individuals within a published category who identify through the questionnaire with the same diversity

characteristic (for example, 4 (four) individuals have a role at the same level of seniority identify themselves as disabled), the Diversity Data Officer will not publish the anonymous data relating to those individuals unless it has their consent to do so.

Destruction of Diversity Data

10.14 The Diversity Data Officer will securely destroy the Diversity Data collected promptly after the Data has been anonymised (such destruction is expected to take place within 3 (three) months following the date of collection). Secure destruction means that as far as possible we shall not hold the Diversity Data in any way where it is possible to identify an individual. In practice destruction will be by secure shredding of paper that contains Diversity Data, and by deletion of all electronic documents containing Diversity Data at source on the server.

10.15 Anonymised data will be kept for at least 12 months.

Questions or Complaints

10.16 You have a right to withdraw your consent or object to the use of your Diversity Data at any time.

10.17 Where your data has already been provided and you wish to withdraw your consent to its use, please notify the Diversity Data Officer in writing (Julie Parker: julie@fountaincourt.co.uk). She will promptly delete or destroy any Diversity Data which includes your personal data and will confirm to you that this step has been taken within 21 days of receiving notification from you.

10.18 Where the anonymised data has been published in summary form, the Diversity Data Officer will not extract your personal data from the published summary unless it is likely that continued publication could cause you or someone else substantial damage or distress. In such circumstances, the Diversity Data Officer will consider the reasons you have put forward and shall respond within 21 days from the date you notify her of your belief to let you know whether she has determined that the continued publication of the data is justified and, if not, to confirm the action taken to extract your data from the published summary and to delete or destroy any copies.

Should you have any questions or complaints about this Diversity Data Officer at julie@fountaincourt.co.uk / 020 7842 3716.

11. GRIEVANCE PROCEDURE

Scope of Procedure

- 11.1 This procedure is applicable to any complaint, grievance or dispute including but not limited to complaints of Discrimination or harassment. Complaints from members of the public concerning Members, pupils or staff, will be dealt with in accordance with Bar Code of Conduct requirements (see Bar Standards Board website) and the Chambers complaints procedure (published on the Chambers website).

Policy

- 11.2 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, respect and fairness. No one will be victimised or suffer a detriment because they raise a complaint or grievance in good faith under this procedure.

Notification of Procedure

- 11.3 A copy of the procedure, which includes names of the nominated persons for responding to formal and informal complaints and grievances, will be available to all Members, staff and pupils in Chambers.

Confidentiality

- 11.4 Confidentiality will be maintained as far as possible and appropriate in the circumstances.

Formal Complaints – Time Scales

- 11.5 Complaints will be dealt with promptly in accordance with this procedure. A formal complaint must be made as soon as reasonably possible and in any event within six months of the act being complained of, or within six months of the end of any informal action taken, save in exceptional circumstances. A formal complaint, which should be made in writing to the Head of Chambers or the Equality and Diversity Officers, will be acknowledged by the Head of Chambers or Equality and Diversity Officers (as the case may be) within seven days of receipt. Any investigation should be completed within 28 days of receipt, unless there are good reasons for delay. Investigations should be conducted in accordance with

standards of natural justice. Where possible, two Members of Chambers not directly involved in the complaint should undertake the investigation, one of whom should be a QC. All parties to the complaint should be permitted to be accompanied by a colleague or friend at any hearing.

Remedial Action

- 11.6 The complainant will receive a written response on the outcome of the complaint with a clear indication of the action Chambers will take if the complaint is upheld. Solutions which rely on changes to working arrangements which may unreasonably disadvantage the complainant should be avoided as this could amount to victimisation.
- 11.7 If the formal grievance or complaint is found to have substance appropriate steps in the circumstances will be taken to remedy the problem. A brief confidential report on all formal complaints and on the outcome will be made to the Head of Chambers and Equality and Diversity Officers and records will be retained for a period of one year from the conclusion of the case with a discretion to keep longer if necessary.

Informal Procedures

- 11.8 Complaints of grievances are more easily resolved if dealt with at an early stage. Individuals with complaints or grievances are recommended to seek the assistance of one of the nominated Members who will, as far as possible, give confidential advice and assistance.

Complaints or Grievances by Pupils

- 11.9 Pupils are encouraged to discuss any grievances which they may have during their pupillage promptly with their pupil supervisors, or (if the pupil prefers) with the Chair of the Pupillage Committee. It is hoped that this would generally solve the problem. However, if the pupil wishes to pursue the matter further, he or she may request the Chair of the Pupillage Committee to arrange an investigation. This would be carried out by three Members of the Pupillage Committee, being (i) either (at the pupil's choice) the Chair of the Pupillage Committee, or its next most senior Member, (ii) a Member of the Committee chosen by the pupil, and (iii) a Member of the Committee chosen by the Head of Chambers.
- 11.10 This procedure is not intended to preclude the pupil from discussing any problems with other Members of Chambers, and in particular the Head of Chambers. Nor is it intended to preclude a pupil deciding to use our

formal complaints and grievance procedure in place of the procedure referred to above.

- 11.11 If informal resolution of the complaint is not possible, the pupil should set out the complaint in writing to the Head of Chambers or the Equality and Diversity Officers.
- 11.12 Whichever procedure is used, a pupil will not suffer any detriment as a result of making a complaint in good faith.

Complaints or Grievances by Tenants

- 11.13 If a Member has a complaint about a clerking matter, in the first instance he/she should attempt to resolve it with the Senior Clerk or seek the assistance of the Head of Chambers or Equality and Diversity Officers. Any other issue may be raised with the Equality and Diversity Officer or with the informal advisers. If resolution of the complaint is not possible through these informal channels, the complaint should be referred in writing to the Head of Chambers or Equality and Diversity Officers.

Complaints or Grievances by Chambers Staff

- 11.14 Chambers' staff are encouraged to raise any matter about which they are unhappy in respect of their overall treatment within chambers with their manager, if this is appropriate. Where it is inappropriate to raise the matter with their manager, the matter can be referred to the Head of Chambers or Equality and Diversity Officers. If informal resolution of the complaint or grievance is not possible or is inappropriate, a formal complaint should be referred in writing to the Head of Chambers for investigation. Employees have a statutory right to be accompanied at all grievance hearings.

Equalities Act 2010

- 11.15 Where a Member, pupil or staff member is disabled there is a duty to consider a reasonable adjustment to this Grievance Procedure. A request for a reasonable adjustment should be made to the Chamber's Equality and Diversity Officers or the Data Diversity Officer.

Bar Council's Equality and Diversity Advisers

- 11.16 There is a confidential direct line to the Bar Council's Equality and Diversity Advisers which is open to pupils as well as practising barristers, and enables people claiming harassment, or who believe they are

experiencing discrimination, to speak in confidence and gain advice. (See details in Section 12 below).

12. CONTACTS AND LINKS

- 12.1 The following contacts and links may be useful for advice and assistance if you feel you have been discriminated against, bullied or harassed or might have any other Equality or Diversity issues or concerns.
- 12.2 **Bar Council's equality and diversity helpline** (tel: 020 7611 1321). A confidential direct line to the Bar Council's equality and diversity advisers is in place. The telephone line, which is open to pupils as well as practising barristers, enables people claiming harassment, or are experiencing discrimination, to speak in confidence and gain advice.
- 12.3 **The Bar Council's pupils helpline** (tel: 0207 611 1430). The Bar Council has a specialist helpline for pupils. The helpline puts pupils in touch with experienced and independent barristers who can help with any problems encountered during pupillage.
- 12.4 **The Equality and Human Rights Commission:**
www.equalityhumanrights.com.