

# Equality and Diversity Policy



# Purpose and objective

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These procedures reflect the controls and processes within Chambers for dealing with Equality and Diversity. The procedures explain the structured process for encouraging equality of opportunity and respect for diversity and preventing unlawful discrimination in our relationship with our clients and others, all members of chambers including self employed Barristers. The requirements apply in relation to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Everyone must contribute to compliance with these requirements, for example by treating each other, and clients fairly and with respect, by embedding such values in the workplace and by challenging inappropriate behaviour and processes. Your responsibility for embedding these values will vary depending on your role in chambers.

These procedures have been produced in accordance with general law set out in legislation, including the Equality Act 2010 and in accordance with the Bar Councils Code of Conduct Rules on Equality and Diversity.

## Policy statement

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Coal Lex Chambers is committed to eliminating discrimination and promoting equality and diversity in its own policies, practices and procedures and in those areas in which it has influence. This applies to all aspects of the chambers professional dealings with members of chambers employed or self employed Barristers, Pupils, Mini Pupils, Clerks, clients and third parties. As well as employment aspects, including recruitment and selection, promotion, opportunities for training, benefits, other terms of employment, disciplinary matters, discipline, selection for redundancy and dismissal. The Chambers is an equal opportunity organisation and is fully committed to a policy of treating everyone equally.

The Chambers will treat everyone fairly and equally and with the same attention, courtesy and respect and will not discriminate without lawful cause against any person, nor victimise or harass them on the grounds of their race or racial group, colour, nationality and ethnic or national origins, gender, sexual orientation, marital status, religion or belief, age or disability.

The Chambers will take such steps and make such adjustments as are necessary in all the circumstances in order to prevent any members of chambers and clients from being placed at a substantial disadvantage in comparison with those who are not disabled.

The Chambers will take all reasonable steps to employ, train and promote employees and self employed members on the basis of their experience, abilities and qualifications without regard to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality and ethnic or national origins), religion or belief, sex or sexual orientation. In this policy, these are known as the “protected characteristics”.

The Chambers will also take all reasonable steps to provide a work environment in which all employees are treated with respect and dignity and that is free from harassment and bullying based upon the protected characteristics. All employees are responsible for conducting themselves in accordance with this policy. Coal Lex Chambers will not condone or tolerate any form of harassment, whether engaged in by employees or by outside third parties who do business with Coal Lex Chambers, such as clients, third parties including instructing Solicitors and suppliers.

All members of Chambers including self employed barristers, door tenants, clerks, pupils or mini-pupils have a duty to co-operate with chambers to make sure that this policy is effective in ensuring equal opportunities and in preventing discrimination, harassment or bullying. Action will be taken under the chambers disciplinary procedure against anyone affiliated with Coal Lex Chambers who is found to have committed an act of improper or unlawful discrimination, harassment, bullying or intimidation. Serious breaches of this equality and diversity policy will be treated as potential gross misconduct and could render the member of Chambers, Barrister, Clerk, Pupil or Mini Pupil or staff liable to summary dismissal. Members of chambers, staff and self employed barristers should also bear in mind that they can be held personally liable for any act of unlawful discrimination or harassment. Anyone who commits serious acts of harassment may also be guilty of a criminal offence.

You should draw the attention of Head of Chambers David Leathley, the Chamber’s Equality and Diversity Officer to suspected discriminatory acts or practices or suspected cases of harassment or bullying. You must not victimise or retaliate against an employee who has made allegations or complaints of discrimination or harassment or who has provided information about such discrimination or harassment, such behavior will be treated as potential gross misconduct in accordance with the chambers disciplinary procedure who in turn are obliged to notify Bar Council of such misconduct. You should support colleagues who suffer such treatment and are making a complaint.

Coal Lex Chambers will also take appropriate action against any third parties who are found to have committed an act of improper or unlawful harassment against its employees or members of chambers.

# Regulation and legislation

In developing and implementing its equality and diversity policy, Coal Lex Chambers and its members will comply with the Equality Act 2010 and with any future anti-discrimination legislation and associated codes of practice.

The Act defines the various kinds of discrimination with reference to the characteristics which are protected under the Act. In summary the law requires that members of chambers, employees and service users (ie clients) have a right to be treated fairly. It also prohibits discrimination based on one of a number of protected characteristics, the list of which is slightly different for employees and service users.

## **Protected characteristics for employees:**

- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy or maternity
- Race
- Religion or belief
- Sexual orientation
- Sex (gender)
- Age

## **Protected characteristics for service users:**

- Disability
- Sex (gender)
- Gender reassignment
- Pregnancy or maternity
- Race
- Religion or belief
- Sexual orientation
- Age (over 18s only)

# Direct discrimination

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Direct discrimination occurs when, because of one of the protected characteristics, a person is treated less favourably than others are treated or would be treated.

## **This includes:**

- In the case of pregnancy and maternity direct discrimination occurs if they are treated in a way because of their protected characteristic, without needing to compare treatment to someone else
- Treating a disabled person unfavourably because of something connected with their disability when this cannot be justified (known as discrimination arising from a disability)
- Failing to make reasonable adjustments for a disabled person.

The treatment will still amount to direct discrimination even if it is based on the protected characteristic of a third party with whom the person is associated and not on the individual's own protected characteristic. In addition, it can include cases where it is perceived that a person has a particular protected characteristic when in fact they do not.

Coal Lex Chambers will take all reasonable steps to eliminate direct discrimination in all aspects of its professional dealings.

# Indirect discrimination

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Indirect discrimination is treatment that may be equal in the sense that it applies to all individuals but which is discriminatory in its effect on, for example, one particular sex or racial group.

Indirect discrimination occurs when there is applied to the person a provision, criterion or practice (PCP) which is discriminatory in relation to a protected characteristic of the person. A PCP is discriminatory in relation to a protected characteristic of the person if:

- It is applied, or would be applied, to persons with whom the individual does not share the protected characteristic

- The PCP puts, or would put, persons with whom the individual shares the protected characteristic at a particular disadvantage when compared with persons with whom the individual does not share it
- It puts, or would put, the individual at that disadvantage
- It cannot be shown by chambers to be a proportionate means of achieving a legitimate aim

Coal Lex Chambers will take all reasonable steps to eliminate indirect discrimination in all aspects of its professional dealings.

## **Recruitment, advertising and selection**

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The recruitment process will be conducted in such a way as to result in the selection of the most suitable person for the job in terms of relevant experience, abilities and qualifications. Coal Lex Chambers is committed to applying its equal opportunities policy statement at all stages of recruitment and selection and in accordance with the Bar Councils Fair Recruitments Guide 2015 a copy of which can be found here [http://www.barcouncil.org.uk/media/343819/fair\\_recruitment\\_guide\\_2015\\_april\\_final.pdf](http://www.barcouncil.org.uk/media/343819/fair_recruitment_guide_2015_april_final.pdf) or a written copy is located in Chambers or available on request.

Advertisements will aim to positively encourage applications from all suitably qualified and experienced people. When advertising job vacancies, in order to attract applications from all sections of the community, chambers will as far as reasonably practicable:

- Ensure advertisements are not confined to those areas or publications which would exclude or disproportionately reduce the numbers of applicants with a particular protected characteristic
- Avoid setting any unnecessary provisions or criteria which would exclude a higher proportion of applicants with a particular protected characteristic.

Where vacancies may be filled by promotion or transfer, they will be published to all eligible employees in such a way that they do not restrict applications from employees with a particular protected characteristic.

However, where, having regard to the nature and context of the work, having a particular protected characteristic is an occupational requirement and that occupational

requirement is a proportionate means of achieving a legitimate aim, Coal Lex Chambers will apply that requirement to the job role and this may therefore be specified in the advertisement.

The selection process will be carried out consistently for all jobs at all levels. All applications will be processed in the same way. The staff responsible for short-listing, interviewing and selecting candidates will be clearly informed of the selection criteria and of the need for their consistent application. Personal specifications and job descriptions will be limited to those requirements that are necessary for the effective performance of the job. Wherever possible, all applicants will be interviewed by at least two interviewers and all questions asked of the applicants will relate to the requirements of the job. The selection of new staff will be based on the job requirements and the individual's suitability and ability to do, or to train for, the job in question.

If it is necessary to assess whether personal circumstances will affect the performance of the job (for example, if the job involves unsociable hours or extensive travel), this will be discussed objectively, without detailed questions based on assumptions about any of the protected characteristics.

## **Training and promotion**

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Coal Lex Chambers will provide training to all employees to help them understand their rights and responsibilities in relation to equal opportunities and dignity at work and what they can do to create a work environment that is free from discrimination, bullying and harassment.

Where a promotional system is in operation, it will not be discriminatory and it will be checked from time to time to assess how it is working in practice. When a group of workers who predominantly have a particular protected characteristic appear to be excluded from access to promotion, transfer and training and to other benefits, the promotional system will be reviewed to ensure there is no unlawful discrimination.

## **Terms of employment, benefits, facilities and services**

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All terms of employment, benefits, facilities and services will be reviewed from time to time, in order to ensure that there is no unlawful direct or indirect discrimination because of one or more of the protected characteristics.

Coal Lex Chambers will have regard to its duty to make reasonable adjustments to work provisions and practices or to physical features of work premises or to provide auxiliary aids or services in order to ensure that disabled clients, employees or partners are not placed at a substantial disadvantage in comparison with persons who are not disabled. No costs of any such adjustments will be passed on.

## **Clients, suppliers and other third parties**

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### **Clients**

Coal Lex Chambers is generally free to decide whether to accept instructions from any particular client or Solicitor, but any refusal to act will not be based upon any of the prohibited grounds referred to above. Chambers will take steps to meet the different needs of particular clients arising from its obligations under anti-discrimination legislation. In addition, where necessary and where it is permitted by the relevant anti-discrimination legislation (for example, provisions relating to positive action or exemptions) Chambers and members will seek to provide services which meet the specific needs and requests arising from a protected characteristic.

### **Suppliers and other third parties**

All lists, if any, of approved suppliers and databases of contractors, agents and other third parties who, or which, are regarded as suitable to be instructed by those within chambers have been or will be compiled only on the basis of the ability of those persons or organisations to undertake work of a particular type and do not or will not contain discriminatory exclusion, restriction or preference.

## **Bullying and harassment**

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This policy covers bullying and harassment in the workplace and in any work-related setting outside of chambers, for example, during business trips and at work-related social events, court buildings or visiting clients and or anyone that we have been instructed by. This policy covers the behavior of members of chambers employed or self employed, clerks, head of chambers, staff, pupils or mini pupils inside or outside of chambers.

Bullying is offensive or intimidating behaviour or an abuse or misuse of power which undermines or humiliates a person.

A person harasses another person if they engage in unwanted conduct related to a protected characteristic, and the conduct has the purpose or effect of violating the other person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that other person.

A person also harasses another person if they engage in unwanted conduct of a sexual nature, and the conduct has the purpose or effect of violating the other person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that other person.

Finally, an person harasses another person if they or a third party engage in unwanted conduct of a sexual nature or that is related to gender reassignment or sex, the conduct has the purpose or effect of violating the other person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that other person, and because of that other person's rejection of or submission to the conduct, they treat that other person less favourably than they would treat them if they had not rejected, or submitted to, the conduct.

The unwanted conduct will still amount to harassment if it is based on the protected characteristic of a third party with whom the employee is associated and not on the employee's own protected characteristic, or if it was directed at someone other than the employee, or even at nobody in particular, but they witnessed it. In addition, harassment can include cases where the unwanted conduct occurs because it is perceived that an employee has a particular protected characteristic, when in fact they do not.

Conduct may be harassment whether or not the person intended to offend. Something intended as a "joke" or as "office banter" may offend another person. This is because different employees find different levels of behaviour acceptable and everyone has the right to decide for themselves what behaviour they find acceptable to them.

Behaviour which a reasonable person would realise would be likely to offend an employee will always constitute harassment without the need for the employee having to make it clear that such behaviour is unacceptable, for example, touching someone in a sexual way. With other forms of behaviour, it may not always be clear in advance that it will offend a particular employee, for example, office banter and jokes. In these cases, the behaviour will constitute harassment if the conduct continues after the employee has made it clear, by words or conduct, that such behaviour is unacceptable to him or her. A single incident can amount to harassment if it is sufficiently serious.

## Examples

Bullying and harassment may be verbal, non-verbal, written or physical. Examples of unacceptable behaviour include, but are not limited to, the following:

- Unwelcome sexual advances, requests for sexual favours, other conduct of a sexual nature
- Subjection to obscene or other sexually suggestive or racist comments or gestures, or other derogatory comments or gestures related to an anti-harassment protected characteristic
- The offer of rewards for going along with sexual advances or threats for rejecting sexual advances
- Jokes or pictures of a sexual, sexist or racial nature or which are otherwise derogatory in relation to a protected characteristic
- Demeaning comments about an employee's appearance
- Questions about an employee's sex life
- The use of nicknames related to a protected characteristic whether made orally or by e-mail
- Picking on or ridiculing an employee because of a protected characteristic
- Isolating an employee or excluding him or her from social activities or relevant work-related matters because of a protected characteristic

## **Reporting complaints**

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All allegations of discrimination or harassment will be dealt with seriously, confidentially and speedily. Coal Lex Chambers will not ignore or treat lightly grievances or complaints of discrimination or harassment from employees, members of chambers, or third parties.

If you wish to make a complaint of discrimination, you should use Coal Lex Chambers grievance procedure a written copy can be found in Chambers or available on request or contact Head of Chambers David Leathley in the first instance.

With cases of harassment, while chambers encourages employees or members of chambers including clerks and third parties who believe they are being harassed or

bullied to notify the offender (by words or by conduct) that his or her behaviour is unwelcome, chambers also recognises that actual or perceived power and status disparities may make such confrontation impractical. In the event that such informal direct communication is either ineffective or impractical, or the situation is too serious to be dealt with informally, you should follow the procedure set out below.

If you wish to make a complaint of harassment, whether against a fellow employee or a third party, such as a client, contractor or supplier, you should follow the following steps:

1. First of all, report the incident of harassment to David Leathley Equality and Diversity Officer as the Chambers Equality and Diversity Director. Alternatively, if you prefer you may speak to Louise Davies Clerk at Coal Lex Chambers.
2. Such reports should be made promptly so that investigation may proceed and any action taken expeditiously.
3. All allegations of harassment will be taken seriously. The allegation will be promptly investigated and, as part of the investigatory process, you will be interviewed and asked to provide a written witness statement setting out the details of your complaint. Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate an allegation, chambers must be able to determine the scope of the investigation and the individuals who should be informed of or interviewed about the allegation. For example, the identity of the complainant and the nature of the allegations must be revealed to the alleged harasser so that he or she is able to fairly respond to the allegations. Anyone interviewed will have the right to be accompanied by a fellow employee, parent or guardian, in accordance with the Employment Relations Act 1999. Chambers reserves the right to arrange for an independent person to conduct the investigation other than the original person with whom you raised the matter.
4. Once the investigation has been completed, you will be informed in writing of the outcome and Coal Lex Chambers conclusions and decision as soon as possible. Coal Lex Chambers is committed to taking appropriate action with respect to all complaints of harassment which are upheld. If appropriate, disciplinary proceedings will be brought against the alleged harasser who if is a member of the Bar will be brought to the Bar Councils attention.
5. You will not be penalised for raising a complaint, even if it is not upheld, unless your complaint was both untrue and made in bad faith.

6. If your complaint is upheld and the harasser remains a member of chambers or employee, Coal Lex Chambers will take all reasonable steps to ensure that you do not have to continue working alongside him or her if you do not wish to do so. Chambers will discuss the options with you.
7. If your complaint is not upheld, arrangements will be made for you and the alleged harasser to continue or resume working and to repair working relationships.

Alternatively, you may, if you wish, use the chambers's grievance procedure to make a complaint of harassment.

Any employee who is found to have discriminated against or harassed another employee in violation of this policy will be subject to disciplinary action under the chambers disciplinary procedure. Such behaviour may be treated as gross misconduct and could render the employee liable to summary dismissal. In addition any members of chambers or staff, clerks pupil or mini pupil who had knowledge that such discrimination or harassment had occurred in chambers but who had taken no action to eliminate it or report it will also be subject to disciplinary action under the chamber's disciplinary procedure and Bar Councils Code of Conduct.

## **Promoting equality of opportunity and respect for diversity**

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Members of chambers including clerks, pupils, mini pupils will be informed of this policy and will be provided with equality and diversity training appropriate to their needs and responsibilities. All those who act on Coal Lex Chamber's behalf will be informed of this equality and diversity policy and will be expected to pay due regard to it when conducting business on Coal Lex Chambers's behalf and to promote the principles of equality and diversity. The chambers will make every effort to reflect its commitment to equality and diversity in its marketing and communication activities.

## **Implementing and scope of the policy**

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### **Responsibility**

Ultimate responsibility for implementing the policy rests with Head of Chambers David Leathley as COLP. All members of Chambers are expected to pay due regard to the provisions of this policy and are responsible for ensuring compliance with it when undertaking their jobs or representing Coal Lex Chambers. Any breach of this policy by members of Chambers can result in disciplinary action or professional misconduct, including termination of services where appropriate.

This policy applies to all members and employees of chambers whether employed or self employed Barristers, pupils and minipupils and clerks.

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

## Grievance Procedure

1. Grievances are concerns, problems or complaints that employees or members of chambers can raise. If the employee or member of chambers has a grievance relating to their working relations with another, the employee or member of chambers may refer this either personally or in writing to the Equality and Diversity Officer David Leathley.
2. Many grievances can be resolved informally in this way which has the advantage that the problem can be resolved quickly
3. However if the member of chambers or employee is not satisfied with the decision of the Equality Officer the grievance must be put in writing to him.
4. On receipt the employee will be invited to a meeting to discuss the grievance and will be informed that they have the right to be accompanied by a work colleague
5. If the work colleague is not able to attend on the proposed date the employer may suggest another date so long as it is reasonable and not more than five working days after the original date. At the grievance meeting the employee must explain their complaint and say how the employee thinks it should be settled. The employer may adjourn the hearing to obtain further advice or make further investigation or to consider his decision
6. The Equality and Diversity Director will write and notify the employee of his decision as soon as possible after the grievance meeting
7. If the Employee is dissatisfied with the decision he/she may appeal the decision to the Equality and Diversity Officer and the date for the Appeal Hearing will be set.
8. An independent person will be nominated to hear the grievance

9. Again the member of chambers or employee must attend and as before is entitled to be accompanied by a fellow employee. The Equality and Diversity Officer may also be in attendance for the purpose of clarification
10. At the Appeal Hearing the Employee or member of chambers will have the opportunity to say why they think that the decision of the Equality and Diversity Officer is wrong
11. The independent person hearing the Appeal will write to the Employee with their decision as soon as possible after completion of the Appeal Hearing and will notify the Employee that the Appeal Meeting is the final stage of the Grievance Procedure.

## **Other Sources of Information:**

Chambers keeps apprised of the guidance offered by the Bar Council. Equality and Diversity guidance and advice (for all concerned) is provided on the internet and is regularly reviewed. The information is currently available on the following link:

[http://ll5.workcaststr.net/10384/9039990667087490/media/10384\\_20120724101958\\_bar\\_standards\\_on\\_demand.mp4](http://ll5.workcaststr.net/10384/9039990667087490/media/10384_20120724101958_bar_standards_on_demand.mp4)

All Members of Chambers, staff and pupils are encouraged to refer to the same.

Equality & Diversity Officer – Mr David Leathley Head of Chambers

Diversity Data Officer – Ms Louise Davies

### **MONITORING**

In seeking to identify and eliminate sources of unintended discrimination, Chambers shall monitor both the recruitment of applicants and staff at all stages and the allocation of work between barristers in Chambers. The monitoring data is analysed at least once per year and published every 3 years 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 UK.

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. The Bar Council Equal Opportunities Officer can be contacted on 0207 242 0082.

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. The Commission for Racial Equality and the Equal Opportunities Commission are also available for consultation.

A written copy of this policy or any other policies are held in chambers and available on request, if a written copy is required please contact Clerk to Coal Lex Chambers Louise Davies on 029 200 99907 or [louisedavies@coalxlex.co.uk](mailto:louisedavies@coalxlex.co.uk)



**COAL LEX**

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