

## 11KBW CONFIDENTIALITY POLICY

This policy explains how 11KBW safeguards client confidentiality in cases where members of chambers are instructed:

- to act on opposite sides in litigation; or
- to advise parties whose interests are in conflict.

Members of 11KBW are independent self-employed practitioners; they are not in partnership. Hence they can act for different sides in a dispute, and can appear against one another in Court. Indeed, it would be a breach of professional conduct for a member of Chambers to refuse to accept instructions simply because another member of Chambers had already been instructed to act for an opposing party.

Protecting our clients' confidential information is a priority for us at all times. We recognise, however, that there is a need to exercise particular care when 11KBW barristers are acting on opposite sides.

This policy deals with two specific issues:

- the circumstances in which we will disclose to one party's representatives that a barrister at 11KBW is acting for another party to the same dispute; and
- the steps that we take to guard against accidental disclosure of confidential information within Chambers.

### DISCLOSING THE FACT THAT AN 11KBW BARRISTER IS ACTING FOR ANOTHER PARTY

We would usually treat as confidential the fact that a particular client is seeking legal advice from chambers, or from a particular member of chambers. If this information is disclosed then it may reveal that the client is involved in a dispute of a particular kind, or is considering a particular course of conduct. This could potentially damage the client's interests.

For this reason, if we are approached by a prospective client seeking to instruct a member of chambers, we will not usually say whether or not another member of chambers is already acting for a different party in the matter. We will not volunteer this information. If asked a direct question, we will respond that we are unable to answer that question. We will give that response, whether or not another member of chambers is in fact already instructed for another party.

This means that if you choose to instruct a member of chambers, you can be confident that this information will be kept confidential. It also means that we cannot tell you whether another member of chambers is instructed to act for an opposing party. Likewise, we will not tell any opposing party that you have chosen to instruct a member of chambers.

There are, however, circumstances in which we will **not** treat as confidential information the fact that an 11KBW barrister has been instructed for a particular party.

We will not treat this information as confidential if the party in question tells us that they are willing for the information to be disclosed.

Likewise, we will not treat this information as confidential where it has already been disclosed to other parties to the dispute, or has been made public, as for instance:

- where the identity of the barrister instructed by a particular party has been disclosed in correspondence;
- where the barrister is named in a document (such as a pleading) that will be made public through the litigation process; or
- where the barrister has been instructed to appear at a public hearing.

## **GUARDING AGAINST ACCIDENTAL DISCLOSURE OF CONFIDENTIAL INFORMATION**

Where barristers at 11KBW act for opposing parties, it is extremely important to ensure that confidential client information held by one barrister is not disclosed to the barrister acting on the other side. We take a number of steps to safeguard against accidental disclosure.

We ensure that for the matter in question the barristers concerned are clerked by different members of our clerking team. We will do this even if it involves a departure from our usual clerking arrangements. Where necessary to guard against a breach of confidentiality, members of chambers will vary their usual working arrangements, e.g.:

- by storing papers away from their usual place of work within chambers;
- by making telephone calls from a different part of chambers, to guard against any risk of being overheard; or
- by working on the case away from their usual place of work within chambers.

We have spare rooms available in chambers that can be used for this purpose where necessary. We can also arrange for papers to be held in locked cabinets in chambers, when the papers are not in current use.

## **PUPILLAGE**

Material contained in instructions to members of Chambers will be kept confidential to the individual member of Chambers instructed and (where appropriate) their clerk. However, such information may be shared with pupils and mini-pupils. Pupils are bound by the duties of confidentiality in the Code of Conduct within the BSB Handbook. All mini-pupils are required to sign an express confidentiality undertaking in relation to any material they might see in Chambers. Such information may also be disclosed on a confidential basis to other members of Chambers to the extent that it is necessary for the purposes of training and assessing pupils and mini-pupils.

Should you wish to discuss any of the above please do not hesitate to contact Lucy Barbet Or Mark Dann, Joint Senior Clerks on 020 7632 8500.