

POLICY AGAINST HARASSMENT

Statement of Policy

1. Chambers is committed to providing a working environment in which all individuals including members, pupils, mini-pupils, employees, clients and the public are treated with dignity and respect. Chambers aims to promote a working environment, which is conducive to the professional growth of its members and employees and to the promotion of equality of opportunity.
2. Chambers will not tolerate any form of harassment and will take all necessary steps to ensure that its members, pupils, mini-pupils and employees are not subject to harassment. Harassment constitutes professional misconduct and is prohibited by the Bar Code of Conduct. For employees, it is misconduct and subject to disciplinary action. Harassment on the protected characteristics (as identified in Chambers' Equality and Diversity Policy Statement) is unlawful under the Equality Act 2010. Harassment can in some circumstances be tortious or even criminal.

The Scope of the Policy

3. This policy applies to all members and employees of Chambers, to pupils and to mini-pupils. The policy applies to:
 - all premises where Chambers' business is conducted;
 - all Chambers-related activities performed at any other site away from Chambers;
 - any social, business or other function where conduct or comments may have an effect on Chambers or relationships within Chambers.
4. It also applies to others for whom Chambers constitutes a working environment, such as contract cleaners, accountants and IT consultants.

Definition of Harassment

5. Harassment is any form of unwanted conduct in relation to a protected characteristic, which has the effect or purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. The essence of all harassment is that it is unwelcome conduct, which is offensive to the recipient. The test is partly a subjective one and the fact that one person may be able to ignore or deal comfortably with certain behaviour does not mean that it is acceptable if directed at another.
6. In addition to the above unwanted conduct, harassment can arise where a person engages in any kind of unwanted sexual behaviour (or gender reassignment or sex related behaviour).

7. A single incident may constitute harassment if it is sufficiently serious. The motive or intention of the perpetrator may be (but is not invariably) relevant.
8. Chambers prohibits any behaviour which constitutes harassment and which is perceived by the victim as relating to or arising from any protected characteristic. Harassment may take a variety of forms and includes behaviour:
 - which is unwanted by the recipient and perceived as threatening;
 - which causes a hostile or threatening working environment;
 - where rejection or submission is used as a basis for decisions concerning the recipient, eg a decision relating to award of pupillage, appointment of tenancy, promotion or other opportunities for career advancement.
9. The following are examples of behaviour, which may amount to harassment:
 - physical assault, including 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, including any sent by email, or verbal abuse;
 - offensive remarks or ridicule;
 - dealing inappropriately with complaints of harassment.
10. Disciplinary action will be taken against any member or employee of chambers found to have harassed a colleague or other person in the conduct of their work.

Communication of the Policy on Harassment

11. A copy of this policy will be provided to all members, employees and pupils of Chambers. If necessary, a briefing will be provided so that all members and employees are aware of behaviour, which is unacceptable within the working environment, and are aware of the harassment policy, procedures for making complaints against and assistance available.

Resolving Complaints of Harassment

Raising A Complaint

12. A person experiencing harassment is encouraged to raise a complaint at an early stage, preferably through the informal procedure. Raising a complaint at an early stage is more likely to result in a

satisfactory resolution. If left unresolved, the harassment may escalate to the point where the situation becomes much more difficult to deal with effectively.

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

14. Chambers is committed to providing a supportive environment in which to resolve problems of harassment, and has put in place a number of options of resolving problems. A non-adversarial approach will be adopted.

15. Informal Resolution Options

15.1 When an incident of harassment occurs, the recipient should communicate their disapproval and objections immediately to the harasser, if they feel able to do so, and request the harasser to stop.

15.2 If the harasser does not stop or if the recipient is uncomfortable about addressing the harasser directly, he or she should bring their concerns to the attention one of the Chambers Equality and Diversity Officers (currently Karen Steyn QC and Marcus Pilgerstorfer).

15.3 Chambers will provide advice or support as requested and will undertake any investigation necessary to resolve the matter, speedily and in confidence. Within one week of the receipt of the informal complaint an investigation will be made, if necessary.

16 Formal Complaints Resolution

16.1 Where the person subject to harassment does not wish to pursue the informal resolution options or has exhausted such options, they may make a formal complaint in accordance with the Grievance Procedure.

16.2 If the allegation of harassment is upheld, appropriate remedial action will be taken.

16.3 This may include any of the following;

- formal apology;
- counselling;
- written warning
- change of work assignment
- report to the relevant Inn recommending removal of pupil supervisor status;
- suspension or discharge of member or employee
- referral to Professional Conduct Committee (PCC).

- 16.4 In addition to the sanction that may be imposed on a member or an employee by Chambers as part of a complaint resolution, members of Chambers who engage in harassment may be liable for damages in the event of a civil lawsuit or may face further sanctions imposed by the BSB's Professional Conduct Committee, or, in a very serious case, criminal sanctions.

Standard of Proof

- 17 The standard of proof applied may differ according to the complaints process involved. The PCC apply the criminal standard, beyond reasonable doubt, to complaints alleging professional misconduct by a barrister. In employment tribunals or county courts the civil standard, balance of probabilities, applies.

Confidentiality

- 18 Chambers recognises that a recipient of harassment may find it difficult to come forward with a complaint and understands that recipients and alleged harassers may be particularly concerned about confidentiality and the effect that a complaint may have on career advancement. To protect the interests of the complainant, the person complained against, and any others who may report or be witnesses to incidents of harassment, confidentiality will be maintained throughout any investigatory process to the extent that this is practicable and appropriate under the circumstances. However, Chambers has a duty to ensure that harassment does not recur. All records of complaints, including notes to meetings, interviews, results of investigations and other relevant material will be kept confidential by Chambers except where disclosure is required for disciplinary or other remedial processes.

Victimisation

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

Pupil Supervisors

- 20 Pupillage is a period of professional training and Chambers regard it as inappropriate for a sexual relationship to develop between a pupil supervisor, any other member or employee of Chambers and a pupil.
- 21 No member of Chambers may participate in decisions concerning a pupil where they are or have been in a relationship with that pupil.

- 22 Further Avenues of Redress for an Individual Experiencing Harassment

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

- A pupil may raise a complaint with the relevant Inns Students' Officer about a sponsor or pupil supervisor. The Inns' complaints process will determine the outcome of such complaints;
- A complaint to the BSB's Professional Conduct Committee where the alleged harasser is a barrister;
- Action in the county court or employment tribunal alleging harassment as a form of unlawful discrimination;
- Report the matter to the police where an act of harassment is a criminal offence, eg assault or intentional harassment.
- Through the Bar Council's Equality and Diversity Officer or Adviser seek the assistance of the Bar Council's Mediation Panel members. Their role is to advise the complainant and, with his or her permission, seek to mediate between the complainant and the alleged harasser. The Panel can be approached in confidence and will aim to achieve an end to the conduct complained of without necessarily finding fault or blame and without the imposition of sanctions.

24 The Bar Council's Equality and Diversity Officer and Adviser are available at the Bar Council to offer advice in confidence to any recipient of harassment or to any member of chambers responding to a complaint of harassment. The confidential helpline number is 020 7611 1310.

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