

DIGNITY AT WORK
(ANTI-BULLYING AND HARASSMENT) POLICY

References to Chambers in this policy include Brick Court Chambers and its service company, Little Essex Street Service Company Ltd. References to employees are to former employees of Brick Court Chambers and current and former employees of Little Essex Street Service Company Ltd, as appropriate.

A. Introduction

1. This is Chambers' Dignity at Work (Anti-Bullying and Harassment) Policy. This Policy is compliant with rule C110.3.j of the Bar Standards Board ("BSB") Handbook. This policy is effective, in this version, from the date of its approval by the Executive Committee, set out below.
2. This is one of several specific policies aimed at achieving the objectives of Chambers' Equality and Diversity Policy, which sets out Chambers' overarching rules, principles and procedures for preventing discrimination, ensuring equality of opportunity, and promoting diversity, and which should be read together with this policy. Any queries or concerns in respect of this policy generally (as opposed to specific conduct) should be raised by one of the means set out in the Equality and Diversity Policy.
3. Concerns and complaints in respect of harassment, bullying and inappropriate behaviour should be raised, and breaches of this policy will be dealt with, as set out below.

B. Purpose and scope

4. Chambers is committed to providing a work environment in which everyone is treated with dignity and respect. This policy aims to promote and provide such an environment by setting out how Chambers combats harassment, bullying and inappropriate behaviour.
5. This policy applies to all individuals working at all levels of Chambers, including members of Chambers, employees, pupils, mini-pupils, consultants, contractors, casual and agency staff ("persons working within Chambers").

Visitors to Chambers such as clients (lay and professional) and those interviewing for jobs, pupillage or tenancy, should refer to the procedure set out on the complaints section of Chambers' website.

6. This policy covers harassment or bullying which occurs both in and out of the workplace, such as in Court, at clients' premises, on business trips, at events or work-related social functions, or in the aftermath of such events. It covers bullying and harassment by persons working within Chambers and by third parties such as customers, suppliers and visitors to Chambers, clients (lay and professional), Court staff and the judiciary.
7. This policy does not form part of any employee's terms and conditions of employment.
8. Chambers reserves the right to amend this policy from time to time and may depart from it where considered appropriate.

C. How Chambers combats harassment, bullying and inappropriate behaviour

9. Chambers will not tolerate harassment, bullying and inappropriate behaviour in any form by those working within Chambers. Any person has the right to complain if they occur.
10. Chambers will support persons working within Chambers who are subject to harassment, bullying and inappropriate behaviour in Chambers or other work-related contexts, such as those listed in paragraph 5 above,
11. Chambers combats harassment, bullying and inappropriate behaviour through:
 - (1) offering guidance as to the type of behaviour that may be considered inappropriate;
 - (2) taking appropriate practical steps to reduce or prevent the chances of such behaviour occurring;
 - (3) resolving, informally and without blame, genuine misunderstandings and disagreements about whether such behaviour has occurred;
 - (4) providing an effective and user-friendly system for raising concerns about objectionable behaviour;
 - (5) taking effective steps to address incidents of such behaviour and to deal with perpetrators of such behaviour in a fair and proportionate way;

- (6) offering practical support for those who feel they have been affected by such behaviour; and
- (7) ensuring ongoing review of this policy.

D. Harassment, bullying and inappropriate behaviour

- 12. Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.
- 13. Harassment also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 14. A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group, or an LGBT+ person, or the friend or family member of an LGBT+ person, may be harassed by offensive discussion about a different group of LGBT+ people.
- 15. Harassment that involves conduct of a sexual nature (sexual harassment), or is related to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation, is prohibited under the Equality Act 2010.
- 16. Harassment is not tolerated at Chambers regardless of whether it falls within a category prohibited under the Equality Act 2010. Chambers specifically prohibits harassment that relates to any of the Protected Characteristics set out in the Equality and Diversity Policy, which include, but go beyond the protected characteristics under the Equality Act 2010, set out in paragraph 15 above.
- 17. Members of chambers and staff are prohibited from engaging in romantic or sexual relationships with pupils (be they 12 month pupils, "third six"/probationary tenants or mini pupils). This is due to the obvious power imbalance between pupils in relation to staff/members of chambers.
- 18. Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation. Bullying can take the form of physical, verbal and non-verbal conduct.
- 19. Behaviour may be **inappropriate** whether or not it fulfils the definitions of harassment or bullying set out above.

Examples of inappropriate behaviour

20. Harassment, bullying and inappropriate behaviour may include, for example:

- (1) inappropriate or unwelcome physical contact;
- (2) inappropriate or repeated unwelcome sexual advances or suggestive behaviour;
- (3) suggesting that sexual favours or a sexual relationship may result in favourable treatment, provide work opportunities or career advancement; or suggesting that refusing such may lead to less favourable treatment or the loss of work opportunities, or damage career advancement;
- (4) continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (5) sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- (6) sexual, offensive or intimidating comments or gestures;
- (7) insensitive jokes or pranks;
- (8) mocking, mimicking or belittling a person's disability;
- (9) racist, sexist, anti-LGBT+, ageist or ableist jokes or comments, including derogatory or stereotypical remarks about a particular ethnic or religious group, gender identity or expression, or sexual orientation;
- (10) outing or threatening to out someone as gay, lesbian, trans or another form of LGBTQI+;
- (11) knowingly mis-gendering someone;
- (12) ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity;
- (13) offensive e-mails, text messages or social media content;
- (14) shouting at, being sarcastic towards, ridiculing or demeaning others;
- (15) physical or psychological threats;
- (16) overbearing and intimidating levels of supervision;

- (17) inappropriate and/or derogatory remarks about someone's performance;
- (18) abuse of authority or power by those in positions of seniority; or
- (19) deliberately excluding someone from meetings or communications without good reason.

21. Legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying or inappropriate behaviour on their own.

E. Challenging harassment, bullying and inappropriate behaviour

- 22. All persons working within Chambers are encouraged to take steps to stop, deter and prevent harassment, bullying and inappropriate behaviour.
- 23. Anyone who witnesses such behaviour directed at another, including hearing harassing or bullying comments, whether inside or outside Chambers, is encouraged to challenge it rather than let it pass, unless to do so would put themselves at risk.
- 24. If you feel that you have been the target of harassment, bullying or inappropriate behaviour, please consider whether you feel able to raise the problem informally with the person responsible and explain to them that their behaviour is not welcome or makes you uncomfortable.

F. Raising concerns

- 25. Anyone who has been the target of harassment, bullying or inappropriate behaviour, or who witnesses such behaviour directed at another, whether inside or outside Chambers, is encouraged to raise their concerns formally or informally within Chambers in order that appropriate support can be provided, and appropriate, proportionate action taken.
- 26. Anyone who learns of such behaviour by another should encourage those involved to raise a concern formally or informally as set out below.
- 27. Chambers recognises that it takes courage to raise a concern about another person's conduct, particularly where that person is in a position of seniority or authority and aims to make it easy and as stress-free as possible to do so.

Note on the Bar Standards Board rules

28. Rule C66 of the BSB Handbook requires any barrister to report to the BSB if they have reasonable grounds to believe that there has been “serious misconduct” by a barrister. “Serious misconduct” for these purposes includes harassment.¹ While this rule contains no exception to protect the confidentiality or wishes of the victim of such harassment, the BSB’s ‘Reporting Serious Misconduct of Others Guidance’ (October 2019) indicates that the BSB has a policy of not taking enforcement action for failing to comply with the duty to report if you may have been the subject of discrimination, harassment or victimisation. The procedures set out in this policy are subject to the rule C66 requirement.

Alternative routes, including for anonymous advice and support

29. In addition to the procedures for raising a concern within Chambers set out below, persons who have experienced or witnessed inappropriate conduct may consider, as appropriate, contacting:

- (1) Talk to Spot, the Bar Council’s online tool for confidentially recording and optionally reporting inappropriate behaviour. The tool is available at <http://talktospot.com/barcouncil> and more information is available at <https://www.barcouncil.org.uk/support-for-barristers/equality-diversityandinclusion/talk-to-spot.html>.
- (2) The Bar Council E&D Helpline on equality@barcouncil.org.uk
- (3) For pupils, the Bar Council Pupils’ Helpline, on 020 7611 1415 or via email at PupilHelpline@BarCouncil.org.uk. For more information see <https://www.barcouncil.org.uk/becoming-a-barrister/pupilbarristers/pupilhelpline.html>.
- (4) For any wellbeing support, LawCare at <https://www.lawcare.org.uk> or on 0800 279 6888.

Raising a concern informally

30. Concerns can be raised informally with any of:

- (1) Chambers’ Equality and Diversity Officer (who is identified on the equality and diversity section of Chambers’ website);
- (2) any member of Chambers’ Equality and Diversity Panel;

¹ The BSB Handbook refers in particular to the definition of harassment within the meaning of the Equality Act 2010, but the definition of serious misconduct is not closed.

- (3) the Senior Clerks;
- (4) the Director of Finance and Operations.
- (5) the Equality & Diversity Manager; or
- (6) the Heads of Chambers.

31. Chambers will ensure that the persons referred to in paragraph 30 above receive appropriate training for such purposes.

32. Concerns can be raised in person, by phone or by email.

33. Those wishing to raise a concern should not feel in any way constrained as to which of these individuals they choose to approach but should simply choose the individual they feel most comfortable talking to about their concern.

34. Alternatively, concerns may be raised with any trusted member of Chambers or staff. That person must then seek advice from one of the individuals listed at paragraph 30 above, or from the Bar Council E&D Helpline, who will deal with the matter confidentially.

35. Any person raising a concern informally is welcome to have a friend with them for any discussions regarding their concern.

36. Where a concern is raised informally with one of the individuals listed at paragraph 30 above, that person will:

- (1) respond promptly;
- (2) ensure confidentiality;
- (3) listen to and discuss the concern;
- (4) explain Chambers' Dignity at Work Policy and the relevant procedures;
- (5) discuss what outcome the person raising the concern would ideally like;
- (6) discuss which Chambers' process – formal or informal – would be the most appropriate to achieve that outcome;
- (7) explain what support Chambers can provide to the person raising the concern, or anyone else who appears to have been affected by the conduct in question;

- (8) discuss the BSB reporting requirement, if appropriate; and
- (9) agree a way forward that the person raising the concern is happy with, in so far as is possible.

37. Where a concern is raised informally and the complainant does not want the person who is the subject of the complaint to know of their complaint, individuals listed at paragraph 30 above may only be able to provide:

- (1) emotional support or guidance; and
- (2) support in accessing counselling or external advice.

38. If the person who raised a concern informally agrees to the person they're complaining about being informed and given the opportunity to respond to the concerns, and where facts are agreed and accepted, there are several possible outcomes from an informal process, which include (but are not limited to):

- (1) advice to the person being complained about as to why their behaviour was unwelcome or inappropriate and a warning that if further similar incidents are reported the consequences might be a formal investigation;
- (2) arrangements being made so that the person about whom the concern was raised, and the target of their alleged behaviour are not clerked into the same cases;
- (3) an invitation to report themselves to the BSB (where appropriate)
- (4) ongoing monitoring of their behaviour
- (5) an agreement not to attend Chambers/Bar social functions for a period, or not to consume alcohol at such events;
- (6) agreement to attend a harassment training course; and
- (7) where appropriate, taking part in a facilitated meeting or mediation with the people involved to resolve misunderstandings, increase awareness and re-build working relationships.

39. Where the conduct in issue is particularly serious, including a repeated series of incidents or including any incident involving any form of assault, the person seeking to resolve the matter shall encourage the person raising the concern to raise a formal complaint.

40. Where a significant concern arises regarding the behaviour of a solicitor, judge or other person not working within Chambers, the complainant is encouraged to raise it within Chambers using the processes set out in this Policy.
41. As a general principle, the decision whether to progress a complaint is up to the person raising the concern. However, Chambers has a duty to protect all individuals working within Chambers and may pursue the matter independently if, in all the circumstances, it is considered appropriate to do so.
42. The person who raised the concern will be kept informed of the outcome of any action taken, and a record will be kept.

Raising a formal complaint

43. Employees who wish to raise a complaint formally should do so through the Employee Grievance Procedure, which is available in the “Staff Resources” section of the intranet.
44. Other persons working within Chambers who wish to raise a complaint formally should do so through Chambers’ Equalities Procedures, available on the equality and diversity section of Chambers’ website.
45. Formal complaints will be dealt with in accordance with Chambers’ Equality Procedures. Where they relate to the conduct of an employee, they will also be dealt with in accordance with the Disciplinary Procedure.
46. Chambers will investigate complaints in a timely and confidential manner. The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint, where possible. Some allegations may require formal investigation by an external party.
47. Where a complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation. The investigator will also meet with the alleged harasser or bully to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.
48. Where a complaint is about someone other than an employee, we will consider what action may be appropriate to protect the complainant and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of Chambers and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
49. We will consider any request made for changes to a complainant’s own working arrangements during the investigation. For example, employees may ask for

changes to duties or working hours so as to avoid or minimise contact with the alleged harasser or bully.

50. It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.

G. Action following a finding of harassment, bullying or inappropriate behaviour

51. If we consider that harassment, bullying or inappropriate behaviour has occurred, action will be taken to address it. Any action taken will be appropriate and proportionate. It may include an outcome of the sort set out at paragraphs 37 and 38 above, and/or any sanction up to and including:
 - (1) suspension or, in very serious cases, summary dismissal (where the person responsible for the conduct is an employee);
 - (2) a recommendation of expulsion pursuant to Chambers' Constitution (where the person responsible for the conduct is a member of Chambers); and
 - (3) making a report to the Bar Standards Board.
52. Where Chambers considers that a report should be made to the Bar Standards Board in respect of the matters complained of, it will consider whether or not to await the outcome of that report prior to taking any action internally, and if so, whether to take any interim measures. Where Chambers decides not to make a report to the Bar Standards Board, no pressure shall be put on any person affected by the conduct in question not to make such a report themselves.
53. Where the person responsible for the conduct is a third party, appropriate action might include an outcome of the sort set out at paragraphs 37 and 38 above; speaking or writing to the person and/or their superior about their behaviour; or, in very serious cases, banning them from the premises or terminating a contract with them.
54. In the case of a formal complaint, the person who made the complaint and the person about whom the complaint is made will be notified of Chambers' decision in writing.
55. Providing false information or otherwise acting in bad faith as part of an investigation, will be dealt with appropriately, and, in the case of employees, treated as misconduct under our Employee Disciplinary Procedure.

H. Protection and support for complainants and others

56. Individuals who make complaints or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result.¹
57. If someone believes they have suffered any such treatment, they should raise the matter informally or formally using one of the means set out above.
58. Any employee found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under our Disciplinary Procedure.
59. Any member of Chambers, pupil or mini-pupil found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be dealt with under Chambers' Equality Procedures.

I. Confidentiality and data protection

60. Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis.
61. Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.
62. Breach of confidentiality by any employee may give rise to disciplinary action under our Employee Disciplinary Procedure.
63. Breach of confidentiality by any member, pupil, mini-pupil or others working at Chambers will be dealt with under Chambers' Equality Procedures.

¹ The Equality Act 2010 provides that victimisation takes place where one person subjects another to a detriment because he or she has done a "protected act", or is believed to have done this or to be intending to do so. "Protected acts", which are defined in section 27(2) of the Equality Act 2010, include asserting

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your legal rights under the Equality Act 2010 or helping someone else to do so. As is explained in paragraphs 52 to 55, Chambers' policy extends not only to such "protected acts" but to steps taken under this policy (including the making of a complaint or the participation in an investigation).