

## **FAIR ALLOCATION OF WORK 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' Fair Allocation of Work policy. It is effective, in this version, from the date of its approval by the Executive Committee, set out below.
2. This is one of a number of 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.
3. The opportunities for barristers to develop a successful practice in their areas of interest are frequently affected by the range and quality of work on which they are instructed, in particular in the early stages of their careers.
4. Members of Chambers should be afforded the opportunity to develop their practices in a fair and equal manner, free from any discriminatory or stereotyped assumptions.
5. The purpose of this policy is to put in place effective procedures for:
  - (1) Ensuring the fair distribution of work;
  - (2) Ensuring the fair distribution of opportunities to attract future work;
  - (3) The monitoring of work allocation; and
  - (4) Responding to, and rectifying where appropriate, complaints and concerns about allocation of work.

## **B. Regulatory Requirement**

6. Section C110(3)(i) of the [BSB Handbook](#) requires that the affairs of Chambers are conducted in a manner which is fair and equitable for all members, pupils and/or employees. This includes, but is not limited to, the fair distribution of work opportunities.
7. [Section 47\(6\) of the Equality Act 2010](#) makes it unlawful for any person to discriminate against a barrister in relation to instructing them. This includes clients, clerks and solicitors. In addition, the [SRA Code of Conduct 2019](#) prohibits solicitors from discriminating unlawfully against any person in the course of their professional dealings. Such dealings will include the instruction of barristers.

## **C. Allocation of unallocated work**

8. References to “unallocated work” in this policy include:
  - (i) An inquiry or instruction which is received by the clerking team for an available member of Chambers or pupil to be identified or recommended, without any identified barrister or pupil being requested by the instructing solicitors or client;
  - (ii) An inquiry or instruction which is received by the clerking team where an identified barrister or pupil is not available; and
  - (iii) Circumstances where a member of Chambers has the opportunity to bring another member into a case in which s/he has been or is to be instructed. Such opportunities should be referred to the clerking team to enable compliance with this policy.
9. On each occasion that an inquiry, request or instruction is made to the clerks in connection with unallocated work (including led work), before putting forward an individual or individuals for that work the clerks will consider all suitably qualified members of Chambers or pupils who have indicated their availability to take on new work on the basis of fair and objective criteria, without regard to protected characteristics.
10. When considering who should be put forward for unallocated work, the clerks are entitled to have regard to the existing capacity of members of Chambers. The clerks should ensure that regular discussions take place with all members to discuss and ascertain their capacity.

#### **D. Monitoring of Work Allocation**

11. Chambers will ensure that its clerks use Lex to monitor Chambers' internal distribution procedures and instructing solicitors' briefing practices. The Joint Senior Clerks will be particularly aware of issues relating to the distribution of any unallocated work coming into Chambers. The distribution of such work will be systematically monitored to ensure that any disparities are identified and rectified.
12. The Senior Clerks will ensure that a written report of every work opportunity is made and retained by the clerking team. The reports should be maintained in a form which ensures that confidential information relating to the case and client can be removed to enable the reports to be reviewed by the Work Allocation Committee (as to which, see further para 13 below). The reports will record:
  - (1) All the members of chambers to whom an opportunity has been offered;
  - (2) All members who were put forward;
  - (3) The member chosen by the solicitor or client; and
  - (4) Whether the solicitor or client agreed to give reasons for the final allocation and why the final allocation was made.
13. There shall be a Work Allocation Committee, composed of at least the Joint Senior Clerks, the Deputy Senior Clerks, the EDO, one female silk and one male silk.
14. The Work Allocation Committee will be responsible for overseeing the monitoring of work and will meet on a regular basis to compare and review the work distribution data to ensure that work is distributed in a manner which is fair. In particular, the Work Allocation Committee will:
  - (1) Review the unallocated work records, which identify the instructing solicitors but are redacted to preserve confidentiality in relation to the case and client; and
  - (2) Identify any significant or recurring discrepancies in work allocation between members and consider whether any remedial steps are necessary or appropriate.

15. For these purposes, “regularly” is at least once every six months. The Work Allocation Committee will:
  - (1) Prepare an annual report on the distribution of unallocated work, to be produced to the EDI Committee and the Executive Committee;
  - (2) Maintain a rolling action plan to record decisions, monitor follow-up action, and track progress on promoting fair work allocation across chambers, which is to be reviewed at each meeting; and
  - (3) Keep under regular review what data is collected and how it may be improved.

**E. Ensuring the Fair Distribution of Work**

16. Members and clerks play a particularly important role in the allocation of work, including led work, since both may be asked by clients for their views as to who would be suited to a particular piece of work. It is a principle of fundamental importance that members and clerks will seek to ensure that the allocation of work in Chambers is dealt with in a fair and equitable manner. Therefore, all members and clerks will be briefed on the importance of fair allocation of work and clerks will receive appropriate and regular training on fair work allocation and inclusive, nondiscriminatory working practices.

**F. Potentially Discriminatory Requests**

17. Chambers will ensure that all clerks are aware of the legal position set out at paragraph 7 above.
18. Clerks may receive requests that are discriminatory, for example requests from solicitors for a barrister of a particular sex or race for a particular piece of work where no justification for such exists. Faced with such requests, the clerks will try to explore the reasons for the request. It may be claimed during the discussion that the request has originated with the client. This is not a justification. Further discussion between the clerk and the solicitor may help to clarify the reason for the request, and it may be possible to meet the underlying need in a non-discriminatory way. In cases of doubt the clerks should seek advice from the Equality and Diversity Officer or one of the Heads of Chambers.
19. On no account will clerks comply with any request or requirement to discriminate on unlawful grounds in the choice of barristers. Should the clerks be satisfied that the request is unlawfully discriminatory, they will

explain that to the solicitor. Should the solicitor nevertheless neither modify the request so as to remove the unlawful discrimination, nor withdraw the request, the work will be politely refused, the clerk will make a full note of the incident immediately, and the solicitor may be reported to his or her professional disciplinary body.

#### **G. Practice Review Meetings**

20. Regular practice review meetings are held between each member of Chambers and their clerking team. These meetings cover discussions of the member's immediate and longer-term ambitions, including:
  - (1) Quality and quantity of work;
  - (2) Advocacy opportunities, including cross-examination of witnesses;
  - (3) Sufficiency of led/unled work;
  - (4) Earnings;
  - (5) Diversity and types of work or practice areas which the member wishes to establish or develop, and any changes in a member's practice over time; and
  - (6) Applications for silk or judicial appointments.
21. In the event of a member deciding to leave the Bar, an exit interview will be arranged in order to understand and, if relevant, learn from the reasons for that decision.

#### **H. Ensuring the Fair Distribution of Opportunities for Future Work (Marketing)**

22. Marketing strategies will take into account equal opportunities considerations. Networking activities, such as giving or attending seminars and lectures and social events, are organised so that all tenants can, so far as practicable, be equally involved. This extends to opportunities for pupils and junior tenants to get to know more members and the clerks.
23. To this end Chambers' networking and marketing opportunities will be publicised within Chambers and allocated fairly. This will usually be done by one of the marketing team, or a member, sending out an email inviting expressions of interest for a particular networking or marketing event.

## **I. Responding to and Rectifying Complaints**

24. To ensure transparency and openness, the clerks are encouraged to discuss fair allocation of work with, and provide relevant work distribution data to, members at their individual practice review meetings. This provides a relatively informal and effective forum for airing, and rectifying, any complaints about the fair allocation of work in Chambers.
25. However, if a member or pupil wishes to make a formal complaint about fair allocation of work, they should in the first instance contact Chambers' Equality and Diversity Officer. Members are also entitled to pursue a complaint under Chambers' grievance procedure.

*Approved by the Executive Committee in December 2025. To be reviewed by the Equality and Diversity Committee regularly.*