



BAR COUNCIL EQUALITY & DIVERSITY GUIDES MATERNITY AND PARENTAL LEAVE (INCLUDING SHARED PARENTAL LEAVE)

Purpose of this Guide

The Bar Standards Board has set out minimum standards and requirements in relation to Maternity and Parental Leave (including Shared Parental Leave) in its equality rules. This guide aims to encourage chambers to adopt good and better practice wherever possible instead of the bare minimum. Accordingly, this guide explains what a model Maternity and Parental Leave Policy (MPLP) should look like, the key issues it should cover, the rationale for positively engaging with Maternity and Parental Leave / Shared Parental Leave and outlines strategies to avoid misuse.

A basic MPLP appears at Appendix 1 and chambers are encouraged to tailor this document to meet their needs after considering this guide.

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Why it is important to support parents at the Bar

Maintaining a career at the Bar and having a family can be a huge challenge, and the burden falls particularly heavily on women at the self-employed Bar. Extended periods without earning can very quickly make it difficult to remain in practice. Sometimes barristers can live off deferred income (aged debt) whilst on Maternity and Parental Leave but then struggle on their return whilst rebuilding their practice, waiting for

payment for work done, paying childcare costs, and meeting the expenses of working e.g., travel, hotel bills. For other barristers, deferred income is quickly exhausted, and they are left financially exposed. As a result, the Bar loses many talented barristers when they choose to have a family. It is important that members of the Bar and chambers do all they can to support those who wish to have a family.

Supporting pregnant barristers

It is important to ensure pregnant barristers are supported to continue to work safely and that their rights are protected. Pregnancy and Maternity is a protected characteristic under the Equality Act 2010, and this includes self-employed barristers, who should not suffer a disadvantage because of their pregnancy.

Chambers should conduct a workplace risk assessment and must do everything reasonable to remove or reduce risks. Chambers should ensure barristers are able to continue to work, and may need to put in place additional support, particularly towards the later stages of pregnancy or if there are medical complications related to the pregnancy. Support may include:

- Considering the impact of travelling on the barrister and allocating cases on that basis.
- Supporting the barrister to speak to the judge to request time to rest or to sit in court.
- Accommodating medical and antenatal appointments.

Fathers/partners rights to attend antenatal appointments should also be accommodated.

Chambers should support barristers to communicate with clients/solicitors in advance of Maternity and Parental Leave, letting them know they will be away for a period, updating them on the cover in place and giving some indication of their anticipated return date (although this may change).

Why it is important to support Shared Parental Leave

Many self-employed barrister parents will share the main responsibility for the care of a child with an employed person. They may want Shared Parental Leave to give them more flexibility in how they care for their child in the first year after the child's birth, or to give their partner the opportunity to return to work/be the primary carer for a period. Enabling Shared Parental Leave can improve equality, support career development, and allow both parents to spend time with their children. It is possible that parents who utilise Shared Parental Leave in the early days will find it easier, later, to continue to share child caring arrangements which will increase the retention rate of self-employed barrister parents.

Policies within chambers can make real change

As of March 2022, 26% of female and 10% of male self-employed barristers were primary carers of children¹.

In 2020, the Chancery Bar Association published *Voices of Women at the Chancery Bar* based on a series of roundtables. Some barristers shared that maternity had an impact on their confidence. Others noted that the challenges of childcare and work-life balance affected female members of their Chambers disproportionately to men².

In 2015, in focus groups with self-employed female barristers of all levels of Call³, the difficulties of balancing family life and a career at the Bar was discussed extensively. These issues were seen as hugely problematic and a real barrier for women in the profession. Success was put down to practice area, luck, and the availability of either a partner as the primary carer or other support. Younger members of the self-employed Bar said they could not see how it was possible to have a career and family and did not see that they had a long-term future in self-employed practice.

These focus groups found that individual chambers' culture and policies had a significant impact on women's experience of bringing up children at the Bar, where supportive chambers made it possible and unsupportive chambers effectively forced women out of the profession or to join another chambers.

The Bar Council believes that it is therefore essential for a modern and forward thinking set of chambers to have an up-to-date and clearly drafted Maternity and Parental Leave Policy (MPLP).

Key terminology

- "Maternity Leave" refers to the time off taken by a mother around the time of birth. Self-employed barristers, like all mothers, must not return to work for 2 weeks following the birth of their child. Maternity leave is also used colloquially for any extended period of leave after the birth of a child, whether it is provided for under statutory maternity leave provisions and/or contract (for employees) or, where it is provided for under regulatory provisions and chambers' internal policies and procedures (for self-employed barristers).

¹ Data comes from Bar Council's CRM March 2022. This is anonymous group data from the Bar Council's CRM membership database, which contains basic monitoring information on all practising barristers in England and Wales and is refreshed annually when barristers renew their practising certificates.

² <https://www.chba.org.uk/for-members/library/consultation-responses/voices-of-women-at-chancery-bar>

³ http://www.barcouncil.org.uk/media/379529/snapshot_-_the_experience_of_self_employed_women_at_the_bar.pdf

- Barristers who are pregnant or have just given birth are protected against discrimination for a “protected period” which for self-employed barristers starts when they become pregnant and lasts up to 2 weeks after they have given birth. For employed barristers this period lasts until the end of their maternity leave. Everyone who has given birth or is breastfeeding is also protected from pregnancy and maternity discrimination in the provision of goods, facilities, and services for 26 weeks after the birth. During and after this period the usual sex discrimination provisions under the Equality Act⁴ apply.
- “Parental Leave” refers to leave taken from practice by a carer of a child following birth or adoption. This could be the mother, father, or adoptive parent of either sex, and includes the married, civil, or de-facto partner of a biological or adoptive parent.

It will ordinarily start in the 12 months following the birth or adoption. However, chambers are free to set their rules about when parental leave can start provided that as a minimum it can be taken in the first 12 months.

- The term “parent” will be used in this guide to cover those who are applying for leave because they are about to become a parent through pregnancy, adoption, or surrogacy.
- The term “carer” will be used to describe an individual, whether male or female, who applies under a chambers’ policy for time to care for a dependent.
- A “dependent” for the purposes of this guide will include an infant, child, young person, or an adult with a disability.
- “Shared Parental Leave,” here, simply refers to a situation in which more than one parent are carers for the same dependent during the same period or during consecutive periods of time.

What is a Maternity and Parental Leave Policy (MPLP)?

A MPLP is a document setting out in clear terms the circumstances under which a tenant in chambers may apply for Maternity and Parental Leave (or Shared Parental Leave).

⁴ <https://www.citizensadvice.org.uk/law-and-courts/discrimination/what-are-the-different-types-of-discrimination/pregnancy-and-maternity-discrimination/?msclid=3bd29c44a9d711ecbca7f616ab7d8c75>

The Law

The Equality Act 2010 prohibits discrimination on the ground of pregnancy and maternity (s.4 EqA). For self-employed barristers, this protection lasts from the start of the pregnancy until 2 weeks after they have given birth (s.18 EqA). Treatment after this period may be discriminatory if it involves the implementation of a decision taken within the protected period (s.18(5) EqA); or if it amounts to discrimination on other grounds e.g., sex, through the application of s. 47 EqA: -

47 Barristers ...

(2) A barrister (A) must not discriminate against a person (B) who is a pupil or tenant—

- (a) as to the terms on which B is a pupil or tenant;
- (b) in the way A affords B access, or by not affording B access, to opportunities for training or gaining experience or for receiving any other benefit, facility, or service;
- (c) by terminating the pupillage;
- (d) by subjecting B to pressure to leave chambers;
- (e) by subjecting B to any other detriment. ...

(6) A person must not, in relation to instructing a barrister—

- (a) discriminate against a barrister by subjecting the barrister to a detriment;
- (b) harass the barrister;
- (c) victimise the barrister. ...

(8) The preceding provisions of this section (apart from subsection (6)) apply in relation to a barrister's clerk as they apply in relation to a barrister; and for that purpose, the reference to a barrister's clerk includes a reference to a person who carries out the functions of a barrister's clerk.

As set out above the prohibition against discrimination by subjecting a barrister to a detriment applies to other barristers, instructing professional and lay clients as well as clerks.

The BSB Rules

The Bar Standards Board's Equality Rules⁵ require that barristers must take reasonable steps to ensure that their chambers has a policy covering:

- i. the right of a member of chambers to take Parental Leave;
- ii. the right of a member of chambers to return to chambers after a specified period, or a number of separate periods, of parental leave, provided the total leave does not exceed a specified maximum duration (which must be at least one year);
- iii. a provision that enables parental leave to be taken flexibly and allows the member of chambers to maintain their practice while on parental leave, including the ability to carry out fee earning work while on parental leave without giving up other parental leave rights;
- iv. the extent to which a member of chambers is or is not required to contribute to chambers' rent and expenses during parental leave;
- v. the method of calculation of any waiver, reduction or reimbursement of chambers' rent and expenses during parental leave;
- vi. where any element of rent is paid on a flat rate basis, the chambers policy must as a minimum provide that chambers will offer members taking a period of parental leave, or leave following adoption, a minimum of 6 months free of chambers' rent; and
- vii. the procedure for dealing with grievances under the policy; and chambers' commitment to review regularly the effectiveness of the policy.

Suggested Policy Contents

As a very minimum, the policy should contain in clear terms the following:

- A clear description of who can apply for Maternity and Parental Leave (or Shared Parental Leave)
- The right to return following leave

⁵ <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

- Who the tenant should apply to for Maternity and Parental Leave (or Shared Parental Leave) and when (with appropriate limitations e.g., to mirror the compulsory maternity leave period) and where periods of leave/return should be arranged between chambers and tenants in a way that is mutually convenient
- Whether there are any restrictions on the ability for tenants to take Maternity and Parental Leave (or Shared Parental Leave) so that it cannot be misused
- How long a tenant can remain on leave
- Whether the tenant will be entitled to a rent-free period during the term of the MPLP or a rebate, depending on chambers' arrangements for calculating rent
- If the tenant is eligible for a rebate, how this will be calculated
- Whether the tenant is required to contribute to any other element of chambers' rent and expenses during leave and, if so, how that is calculated
- How chambers will deal with grievances under the policy, and how it will review the effectiveness of the policy
- A right to work during parental leave; and
- An explanation of how any work undertaken will impact on the calculation of the six-month rent-free period.

Desirable additional terms:

- Provision for what kind of contact should be maintained between chambers and the tenant during the period of leave. Some tenants will want to be contacted regularly; others will want as little disturbance as possible. An agreement should be reached about how much contact there will be, on what topics and who will communicate with the tenant.
- Provisions for tenants to choose to come back to chambers for "keeping in touch days" or KIT days⁶.
- Provision for the return of briefs allocated to the tenant before they commenced leave.

⁶ <https://www.gov.uk/employee-rights-when-on-leave>

- Provision for the forwarding of mail and other notices delivered to the tenant at their chambers address.
- Discussion as to how the tenant's return to work will be managed and notified to the rest of chambers and to professional clients.
- Provision for additional support for tenants returning to practice after an extended period of leave (for example 6 months away from their practice) which may include support with re-building their practice, resuming relationships with key clients, and being given access to appropriate opportunities.
- Provision for the tenant to apply under the policy, for a longer extended period of leave following the 12-month minimum, up to a stated maximum, to care for their child on a full-time basis, with a return to chambers within that stated period without a formal application procedure.
- How chambers will address flexible working by tenants outside of formal parental leave including, but not limited to, its approach towards tenants who require restrictions in their diary or time away from chambers for fertility treatment.
- The policy should ideally extend to pupil members of chambers and to prospective pupils.
- The policy should ideally set out what a tenant is entitled to if their baby is stillborn or dies shortly after birth (in an employment setting, full maternity rights are available to a woman in this situation).

Covering work during Maternity and Parental Leave

Arrangements need to be made for covering a barrister's caseload during his or her maternity and parental leave. However, chambers should ensure that policies and practice do not result in transferring cases permanently to another barrister unless there is a good reason to do so. Barristers, clerks as well as instructing lay, and professional clients are under an obligation to ensure a barrister resumes conduct of any given case at the end of maternity and parental leave where this is appropriate.

Supporting barristers returning to practice after a period of parental leave

It will be appropriate to support barristers to build back their practice after a period of non-instruction if they have taken considerable time off (6 months or more) for Maternity or Parental Leave, so that they can overcome any detrimental impact to their career.

Support may include:

- A return to practice meeting where the barrister and practice manager carry out a full review of the practice, identify opportunities to rebuild relationships with clients and agree ways of working if the barrister is returning with different flexible work arrangements.
- Proactive marketing and support to promote the barrister's practice and availability.
- A mentor to help the barrister re-build confidence and networks after their period of leave.

Under the Positive Action provisions of the EQA 2010, if chambers identify barristers returning to practice after a period of leave require more support, they may be able to introduce preferential briefing for a limited time to reduce the impact of the break in practice⁷.

Example one

Ledbury Chambers gathered earnings data which showed women who returned from maternity leave had not caught up with their contemporaries within 18 months. They introduced a positive action measure where any tenant who had taken 6 months or more parental leave would be offered 1 in every 3 appropriate unallocated briefs which came into chambers for a 3-month period.

Chambers' rent and expenses

Flat rate rent

The equality rules require, as a minimum, that there is a rent-free period of six months, but this is only where rent is paid on a flat rate basis.

Example two

Oakwood chambers charges tenants a (i) fixed rental contribution of £1,000.00 per month; and (ii) rent calculated as 15% of receipts excluding VAT. To comply with the equality rules, Oakwood must waive the requirement for tenants on Maternity and Parental Leave or Shared Parental Leave to pay both rent of £1,000.00 per month for six months as well as 15% on receipts for six months.

The Bar Council strongly recommends that chambers go beyond the bare minimum. There is a variety of ways in which a chambers might make it easier for tenants to return to work, for example, by:

⁷ https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/Positive-Action_Guide_Bar-Council_2020-1.pdf

- i. Extending the rent-free period (or collecting a reduced rent) beyond 6 months.
- ii. Deferring payment of chambers' expenses (or removing the requirement to pay them at all) for a period; and / or
- iii. Some form of rebate (an example of which is as set out later in this Guide).

Other rent systems

Where chambers use a method of calculating rent other than on a flat rate basis, they are not obliged to offer the rent-free period. However, chambers are strongly encouraged to formulate strategies which create a minimum six-month rent-free period as it may make the difference between parents returning to the Bar or abandoning their careers. Examples 2, 3, & 4 below are in the BSB Guidance.

Example three

Greenway chambers offers a £10,000.00 credit for all barristers and pupils returning to chambers from a period of Maternity and Parental Leave. The credit can be used against all chambers expenses rather than solely against the flat rate element of the rent.

Example four

Redway chambers operates a percentage system for rent based on an individual's previous year's receipts. Even though Redway chambers operates a percentage-based system it offers those taking a period of Maternity and Parental Leave 6 months free of rental payments. It also permits the deferral of rental payments after the 6-month relief period for a further 6 months effectively entitling new parents to a year's rent relief.

Example five

Orangewood chambers calculates rent on a percentage of receipts basis. It allows members taking a period of Maternity and Parental Leave to pay only 5% on all receipts for up to 6 months of leave. Normally members pay 10% so those on Parental Leave receive a 50% discount.

Rent rebates

Chambers can also help parents by introducing a rent rebate which is either payable at the start of Maternity and Parental Leave / Shared Parental Leave or upon a barrister's return.

Example six

Blueforest chambers charges rent to tenants on a variable percentage basis depending on receipts. The first £50,000.00 in receipts (excluding VAT) during the calendar year is rent free. Thereafter, rent is charged on receipts (excluding VAT) as follows: (i) 30% on the next £100,000.00, (ii) 10% on the next £50,000.00 and (iii) 5% on the balance. A rent rebate is paid in monthly instalments for 12 months beginning with the first month of Maternity and Parental Leave / Shared Parental Leave. The rent rebate is calculated by looking at the average rental contribution in the previous calendar year. Any receipts during the 12-month period during which the rent rebate is paid, is charged at the normal percentage.

Barrister A earns £200,000.00 in 2017 which means that she pays rent overall of £35,000.00 ($(£100,000.00 \times 0.3) + (£50,000.00 \times 0.10)$) or an average of £2,916.67 per month. During her Maternity and Parental Leave, which lasts for 12 months, she receives a rent rebate of £2,917.67 each month. However, she also receives £100,000.00 in receipts over this period and so she pays rent, as normal, in the sum of £15,000.00 ($£50,000.00 \times 0.3$).

Avoiding misuse

It is important that Maternity and Parental Leave Policies only protect tenants who are genuinely caring for their children. To this end the Bar Standards Board has confirmed that it may be a breach of Core Duty 3 to misuse a Maternity and Parental Leave (Shared Parental Leave) scheme contained in the equality rules⁸. Chambers should ensure that MPLPs are carefully constructed to avoid the potential for abuse and should tackle misuse if it happens.

Example seven

Barrister B becomes a father in February 2018. His partner does not work and will be shouldering most of the childcare. However, Barrister B tells his chambers that he is taking a period of Shared Parental Leave (up to 12 months) although he

⁸ https://www.barstandardsboard.org.uk/media/1596730/bsb_equality_rules_handbook_june_2014.pdf (page 34, para 6)

continues to work at a similar level before and does little childcare. He claims that he is entitled to at least 6 months' rent free.

A MPLP which makes it clear that a barrister must be the carer / primary carer of the dependent (other than in comparison to the other parent) and / or imposes a cap on billings during the Shared Parental Leave / Maternity and Parental Leave period should avoid this abuse.

Example eight

Barrister D becomes a parent in April 2018. For some time, he has wanted to write a new practitioners book on his area of specialism, but he has been discouraged because he knows that it will take around 6 months to write and he cannot afford to lose out on billings for such an extended period. He tells his chambers that he is going to take on 50% less work for 12 months after the birth of his child which should be classed as parental leave. He also claims that he should enjoy an equivalent rent-free period. In fact, he plans to not look after his child very much and instead wishes to use the additional time generated by scaling back his practice to author his new book.

A MPLP which makes it clear that a barrister must be the carer / primary carer of the dependent (other than in comparison to the other parent) during the Shared Parental Leave / Maternity and Parental Leave period should avoid this abuse. This conduct potentially amounts to dishonesty and if proven, is likely to amount to a breach of Core Duty 3.

Example nine

Barrister E becomes a parent in May 2018. He is not the primary parent to his new child as his wife has given up her job and wants to do all the childcare. Barrister E has had an extremely successful and exhausting few years in his practice where he has been working 80 hours plus each week. After the birth of his child, he tells his chambers that he is taking 12 months parental leave during which time he will work but will scale back his practice to around 60 hours a week. He does not plan to use this additional "free" time to look after his child and instead wishes catches up on his hobbies and interests. However, he still asks for a rent-free period because he attributes the decrease in his billable hours to parental leave.

A MPLP which makes it clear that a barrister must be the carer / primary carer of the dependent (other than in comparison to the other parent) and / or imposes a cap on billings during the Shared Parental Leave / Maternity and Parental Leave period should avoid this abuse

Process for creating a MPLP or amending an existing policy

Before you start formulating a Maternity and Parental Leave policy, we recommend that chambers:

- Consult members on what they would have liked/would like to see in any policy. This will afford tenants an opportunity to comment on any proposals and air any concerns. Such a consultation, as well as providing potentially useful information for those who will be engaged in drafting, may well go some way to ensuring acceptance of the policy and its ethos.
- Build support for your policy before you take any proposal to your management committee (identify key opinion formers and ensure they support your proposals).
- It may assist as part of the consultation to establish how often the policy is used, how long parents have taken off and how many have come back (and whether part-time or full-time). This can help build the financial case for the policy and dispel some of the myths that can exist regarding the cost to chambers.
- Consider carefully (and consult on) who the MPLP is intended to assist and in what scenarios. This will enable chambers to formulate policies that are carefully drafted to avoid misuse or misunderstandings.

The new MPLP, or any final amendments to the MPLP, should be incorporated into chambers' constitution. Once a new policy is in place, it is important to publicise it within chambers and make sure that it is always readily accessible. Tenants are likely to need access to the MPLP at a time that is personally sensitive or confidential, for example, she or her partner are planning to get pregnant, or it is the early stages of their pregnancy. It follows that the MPLP should be accessible without needing to request it from another person in chambers. It will usually be possible to ensure that a copy of the MPLP is available online or on a shared drive.

Useful Links:

- <https://www.gov.uk/maternity-allowance>
- The equality team at the Bar Council can offer advice. Please contact: Equality@barcouncil.org.uk

Appendix 1: Model MPL POLICY

INTRODUCTION

1. This policy applies equally to members of Chambers who are parents or carers of children and other dependents. It should be read in conjunction with Chambers' Constitution.
2. Chambers will ensure that its staff are familiar with this policy through appropriate training.
3. "Parental Leave" refers to leave taken from practice by a carer of a child following birth or adoption. This could be the mother, father, or adoptive parent of either sex, and includes the married, civil, or de-facto partner of a biological or adoptive parent.
4. The term "parent" will be used in this policy to cover those who are applying for leave because they are about to become a parent through pregnancy, adoption, or surrogacy.
5. The term "carer" will be used to describe an individual, whether male or female who applies under this policy for time to care for a dependent.
6. A "dependent" for the purposes of this policy will include an infant, child, young person, or an adult with a disability.
7. "Shared Parental Leave" simply refers to a situation in which more than one parent are carers for the same dependent during the same period or during consecutive periods of time.
8. Any barrister member is entitled to up to twelve months leave of absence from Chambers for the purposes of Parental Leave or Shared Parental Leave to care for their dependent. They must be the primary carer of the dependent other than in comparison to the other parent during the period of Maternity and Parental Leave or Shared Parental Leave. The period of Maternity and Parental Leave or Shared Parental Leave may be extended by the Management Committee, on application.
9. Such leave is to be commenced within twelve months of birth of the child or the child entering a family (either because of, or with a view to the adoption of, that child).

10. During the period of any Maternity and Parental Leave, a barrister member shall be entitled to a period of up to twelve months of *[add in relevant waiver of any flat rate element of rent or rebate etc.]*.
11. *[Set out method of calculating rebate if one if being offered]*.

PRE-LEAVE

12. Any barrister member of Chambers intending to take time off from Chambers for the purpose of Maternity and Parental Leave or Shared Parental Leave must give written notice to the Head of Chambers. Such notice shall be given at least one month prior to the expected date of birth or adoption of a child (or of a child joining the family with a view to adoption) although the Management Committee may exceptionally agree a shorter period of notice. Chambers recognises that there will be circumstances in which it will not be possible to give any notice (for example, a premature birth).
13. Chambers (and Chambers' clerks) will accommodate time-off for fertility treatment, ante-natal care, and related medical and other appointments.
14. Prior to the commencement of leave, the barrister should meet with the Senior Clerk (or another appropriate clerk) to discuss and where appropriate agree:
 - a. The level and type of contact s/he would like to have during Maternity and Parental Leave or Shared Parental Leave.
 - b. Any outstanding cases and appropriate cover.
 - c. Any outstanding billing.
 - d. A proposed return date.
 - e. How, when and by whom solicitors will be informed of the start and end date of Maternity and Parental Leave or Shared Parental Leave.
 - f. Arrangements for the forwarding of post and paying in of cheques.
 - g. Whether s/he should suspend her/his practising certificate. It should be borne in mind that while suspension means that the barrister member will be free from CPD obligations for the period of suspension, it also means that s/he will not be able to take on any work during the period of leave; and

- h. Whether s/he will be undertaking work during Maternity and Parental Leave or Shared Parental Leave.

DURING LEAVE

Contact with Chambers

15. In accordance with (*para ref.*) of the Constitution, Chambers through the Senior Clerk (or other appropriate person) will ensure that the barrister member is kept informed of chambers meetings, important chambers decisions, seminars, or conferences to be held by chambers relevant to the barrister's practice and, where seminars held by outside organisations.
16. Where possible and with the agreement of the barrister member concerned, seminar materials should be sent to the barrister.
17. Unless otherwise informed by the barrister member, it should be assumed that s/he cannot attend chambers and team meetings and apologies for absence should be reflected in the minutes of those meetings. Minutes should be e-mailed to the barrister member where appropriate.

Management of pigeonhole

18. The barrister member's pigeonhole should be monitored by the clerks on a regular basis. Where necessary the contents should be posted to the barrister at least monthly at no cost extra cost to the barrister.
19. Any cheques received during maternity and parental leave should be dealt with in accordance with the arrangement reached under paragraph 14.f above.

Preparation for return to practice

20. The below measures are aimed at ensuring the member's return to Chambers after leave of absence is properly managed and planned and that steps are taken to ensure work is available for the member upon their return and to assist in every way practical in rebuilding the member's practice. This is the responsibility of both the barrister member and Chambers through the Senior Clerk/Practice Manager.

Keeping in Touch (KIT) days

21. KIT days can be used for any work-related activity e.g., training or team events. The content, frequency and number of KIT days should be designed to

make the return to work following leave easier for the barrister member. They are taken during leave.

22. Prior to the commencement of leave, the barrister member in consultation with the Senior Clerk should agree the number of KIT days to be used subject to a maximum of 10 days. Agreement should also be reached as to the dates of the KIT days, although this should remain flexible.
23. During the period of leave, the barrister member should be reminded by the Senior Clerk (or other appropriate clerk) by e-mail of the dates of KIT days. These days should not affect the calculation of chambers parental leave benefit.
24. Where possible the agenda for the KIT days should be planned. There should be at least one meeting with the head of the relevant clerking team which would be similar in content to a practice review. Consideration should be given to arranging a meeting with one or more barrister members of the relevant practice team.

Pre-return to practice meeting

25. At least three months prior to the barrister member's return to practice consideration must be given to the following:
 - a. Identification and appointment of a mentor who will assist the barrister member in settling back into practice.
 - b. The likely working hours, the type, duration, and location of any hearings that the barrister member may undertake. This should include any request for flexible or part-time working (*as per paras ref of the Constitution*);
 - c. Any need for the barrister member to attend a "refresher" course in their relevant practice area.
 - d. Review the barrister member's website profile in conjunction with the Senior Clerk (or other appropriate clerk) and Chambers marketing director, and where necessary update the profile.
 - e. Announce the barrister member's return to practice on chambers' website; and
 - f. Identify a list of solicitors and write to each of them announcing the barrister member's return to practice.

RETURN FROM LEAVE

26. On return to work each barrister member may work part-time or flexible hours or have restrictions on travel to enable them to manage their family responsibilities as per Chambers' Constitution at (*para ref.*). Chambers recognises that some members may have a greater need for flexible working than others – for example, where a child has a disability or a medical condition.
27. Management Committee shall grant the request for such approval to the extent that it considers that it is in accordance with the reasonable needs of Chambers taking into account the Chambers Equality Code and the applicable law.
28. The following adjustments should be made to accommodate the needs of barrister members returning from parental leave:
 - a. The timing of Chambers meetings, team meetings and practice reviews should take into consideration childcare needs of barristers, and attendance at evening/weekend meetings should not be expected. Chambers should make childcare provision for Chambers' meetings or any other meeting which take place over the weekend or in the evening and at which a member's attendance is expected or required;
 - b. Support with marketing and rebuilding relationships with key clients/solicitors.
 - c. Remote access should be made available to barrister members wishing to participate in meetings from home; and
 - d. A three-month review should take place, at which the barrister members' career and support needs are identified. Their "mentor", the Senior Clerk (or another appropriate clerk) and where requested, the team convener, should be present.
29. Barrister members are responsible for ensuring their practising certificates and insurance are current upon return.
30. Positive action measures to support returners will be considered by the [*insert appropriate committee*] if evidence of disparities emerges.

PUPILS

Prospective pupils

31. Upon application, Chambers may defer the commencement of pupillage of prospective pupils who become pregnant prior the commencement of pupillage for a period of up to 12 months.
32. Prospective pupils with existing childcare commitments may discuss with the Pupillage Committee how their working hours during pupillage can accommodate such commitments and should be advised of their entitlement to flexible working hours in accordance with this policy.

Current pupils

33. This part of the policy applies to all first and second six pupils who are parents or guardians or carers of dependents. *Para. Ref.* below (flexible working hours) also applies to third six pupils and squatters.
34. Pupils who become pregnant during pupillage may defer completion of the remainder of pupillage, subject to the requirements of Part V of the Bar Training Regulations.⁹
35. If an exemption from the Bar Training Regulations is required, the pupil's supervisor shall be responsible for obtaining written permission from the Bar Standards Board.
36. Such a deferral shall not affect the overall pupillage award which shall be paid monthly during the period in which the pupil is undertaking pupillage. In the event of a rise in the pupillage award following deferral and prior to commencement of the deferred period the pupil shall be paid at the increased rate during the deferred period.
37. In the event of deferral and during the pupil's 'break' period, the pupil's supervisor shall be their point of contact with Chambers.
38. Chambers shall accommodate pupils' requests for flexible working hours to allow for childcare commitments. Such working hours should be discussed with

⁹ i.e., that except with the written permission of the Bar Standards Board: (i) the non-practising period of pupillage must be undertaken for a continuous period of six months (regulation 31); and (ii) the practising period of pupillage must commence within 12 months of completion of the non-practising period and be completed within an overall period of 9 months (regulation 32).

the pupil's supervisor to ensure that the pupil is able to complete the work that is required of him or her.

39. The need to work flexible hours for this reason should not, as far as possible, affect the allocation of court work during the practising period of pupillage. Pupils should however be aware of the demands of the court schedule and the necessity for evening and last-minute briefs and should arrange childcare with this in mind wherever possible.
40. Pupils should be assured that any need to work flexible hours for reasons of childcare will not in any way affect their prospects of being recruited as a tenant pursuant to the Chambers' policy on recruitment of tenants from pupils.

MISUSE OF THIS POLICY

41. It will be a disciplinary offence under *(add para ref)* of the Chambers' Constitution to abuse this policy. Any individual found to have misused this policy will be referred to the Bar Standards Board on the basis that Core Duty 3 will have been breached.

REVIEW OF THIS POLICY

42. The Chambers' Equality and Diversity Officer will review annually the effectiveness of this policy, and where appropriate will make proposals for change to the Management Committee.

Helpful Information

- Barristers should be made aware of Practising Certificate discounts for those on Maternity and Parental Leave¹⁰
- Bar Council Checklists and other links¹¹
- Information about 'keeping in touch days' can be accessed via the Direct.gov website¹²
- Information regarding maternity allowance can be found at the Direct.gov website

¹⁰ <https://www.barstandardsboard.org.uk/for-barristers/authorisation-to-practise.html>

¹¹ <http://www.barcouncilethics.co.uk/documents/family-career-breaks-advice-pack/>

¹² <https://www.gov.uk/employee-rights-when-on-leave>