



The Bar Council

Calculating work distribution in chambers: Earnings monitoring toolkit

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Introduction

This toolkit provides chambers with guidance for monitoring earnings and demonstrates how earnings can be used to assess the distribution of work. It provides practical guidance on different monitoring methods and steps to take if any issues are identified.

In this edition we have combined two previous guides – Monitoring Work Distribution Toolkit Part 1: Sex and Part 2: Race. We have selected the models from each toolkit which chambers found most useful and have introduced a new model using a box and whiskers methodology. As a result, some model numbers will be different from previous guides.

Equality and diversity remain a pressing issue at the Bar. To be truly effective the Bar must reflect the population it serves. To attract and retain top talent and secure instructions from leading professional and lay clients, organisations at the Bar must be visibly diverse, and inclusive.

In 2019 we marked 100 years since women were able to become lawyers. The profession has come a long way since then, with more women than men now being called to the Bar. Despite this progress, women are still outnumbered by men in almost all areas of practice and there are far fewer senior women. Black and minority ethnic barristers are also underrepresented, from pupillage onwards, and there are still relatively few disabled barristers¹.

Work to understand why there is still a lack of diversity at the Bar, particularly amongst more experienced (senior) barristers, has found barriers to progression remain. Whilst maternity, returning to work and balancing care for a family can be significant barriers to a career at the Bar, we know problems start before a barrister starts a family². Evidence from the Bar Council's membership database, Working

¹ <https://www.barstandardsboard.org.uk/uploads/assets/1fda3d4b-c7e3-4aa8-a063024155c7341d/diversityatthebar2018.pdf>

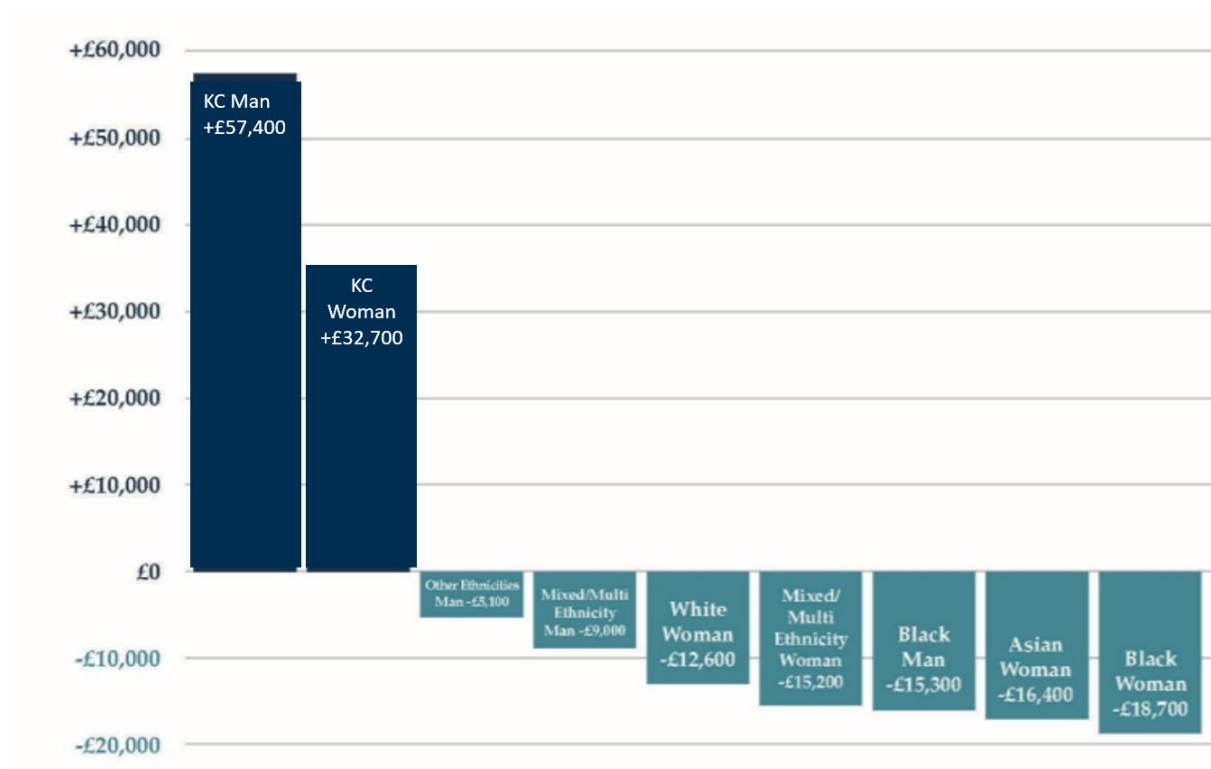
² <https://d17g388r7gqnd8.cloudfront.net/2019/01/WCWF-Back-to-the-Bar.pdf> and <https://www.counselmagazine.co.uk/articles/equitable-briefing>

Lives Survey³ and the Race at the Bar Report⁴ also shows that barristers from ethnic minority backgrounds can face additional barriers both sustaining and progressing their careers at the Bar.

Whilst it is a challenge for everyone to develop a viable practice, the data shows that some groups face greater challenges because of inequitable work distribution.

Research undertaken to inform the 2021 Criminal Legal Aid Review found systemic issues with access to work at the criminal Bar by ethnicity and sex⁵. Data taken from the Bar Council's membership database indicates that, at all band levels, White male barristers earn the highest gross earnings⁶. This is especially stark from band 5 to band 8 (the highest income brackets). Asian/Asian British males fare the best after White males and female barristers, and Black women earn the least of all groups.

Chart 3: How sex, race and seniority affect pre-tax profit at the self-employed criminal Bar



³ <https://www.barcouncil.org.uk/media-campaigns/publications.html>

⁴ <https://www.barcouncil.org.uk/resource/race-at-the-bar-report-2021.html>

⁵ Bar Council (May 2021) "Bar Council Response to the Criminal Legal Aid Review Call for Evidence" <https://www.barcouncil.org.uk/uploads/assets/7bb32f9d-ffce-4ce0-aa50239091e2713f/CLAR-Bar-Council-submission-final.pdf>

⁶ This is derived AtP data This is based on data for 15,713 practising barristers out of a total of 16,983; the remaining 1,270 barristers either provided no information or preferred not to say.

In the seminal Voices of Women at the Chancery Bar⁷ report, many women expressed concern that they were not being given the same opportunities as their male colleagues, resulting in lower earnings and significant frustration.

Central to any intervention aimed at increasing diversity at the Bar must be a focus on how work is distributed. Those who get the most work, and those who receive the best paid briefs will develop and sustain a thriving practice.

The clearest way to monitor how work is distributed is to analyse the distribution of gross earnings (otherwise referred to as receipts) with reference to protected characteristics. This way chambers can see who is thriving and who may be struggling. As knowledge increases, so too will an understanding of whether a barrister is 'on track' or if they need more support with marketing, clerking, or mentoring. Of equal importance, chambers will be able to understand whether there are any barriers to equitable access to the best briefs and can work towards addressing those barriers.

Monitoring gross earnings can create a positive culture within chambers

Before considering chambers' regulatory obligations, it is important to stress that monitoring gross earnings can create a supportive, constructive culture within chambers.

Since publishing our first guide on this topic in 2021, the Bar Council has been working with chambers to better understand the data around earnings, including how it can be used to support those barristers who need it.

For some chambers, a transparent approach to earnings means all members' monthly receipts are placed into a securely distributed spreadsheet and circulated amongst all members of chambers. This model allows chambers to do detailed analysis and encourages conversations between members and practice managers about how their practice is faring, and if more support is needed.

Another large set analyses members' receipts annually, looking at the top quartile to celebrate success at a general meeting, and at the bottom quartile to discuss where

⁷ <https://www.chba.org.uk/for-members/library/consultation-responses/voices-of-women-at-chancery-bar>

more support or intervention is needed. Again, this allows the chambers to keep track of barristers who may be falling behind their peers.

For many chambers, analysis of earnings is an ongoing part of their operations processes, undertaken by the management team, equality and diversity officer or allocation of work committee, to establish patterns and tackle disparities. This approach enables chambers to understand where to target support, and where intervention is needed.

We know there are many variables which determine a barrister's earnings including - but not limited - to their chosen practice area, the type of cases they take on, the hours they work, their engagement in marketing activities and promotion, the pro bono work they do, where they work and the quality of their work. Barristers at the self-employed Bar have these choices. Indeed, many people choose the Bar because they want the freedom to make these choices.

But there are other factors which are beyond individual barristers' control which have an impact on earnings. These may include - but are not limited to - whether their clerks put them forward for work, the attitudes and briefing practices of clients or solicitors, their ability to access marketing opportunities, the opportunities to be led in high-profile or lucrative cases, and whether they have support or sponsorship by senior members.

Monitoring earnings can only help chambers by giving a rough indication as to how well a barrister is doing compared to others at a similar stage or practice area. Chambers can then use this information to consider if any differences identified are easy to explain, are appropriate and are based on decisions that a barrister has made about their practice and the context in which they are working. They can also identify if there may be another - potentially unfair - reason which the barrister might need support in addressing.

Earnings monitoring for small groups

It is recognised that low numbers of some groups, in chambers and at the Bar overall, pose a challenge when it comes to monitoring earnings. There is a risk that analysing and publishing earnings data could result in identification of individuals which may lead to embarrassment, and maybe even the stigmatisation of lower

earning barristers. Equally, there is a risk that statistical analysis of earnings where small groups are compared to a larger majority will be less meaningful or result in distorted patterns.

We believe it is important to look at as many different characteristics as possible, including differences within ethnic groups. This toolkit therefore proposes different models, some which work where there are significant numbers in each group being compared, others which work better for small groups. For each model we indicate the instances where it can be applied, as well as the advantages and disadvantages associated with a particular approach.

Based on our experience over the last few years, working directly with chambers using different models, we suggest chambers experiment with a few different models as each can show something useful, potentially highlighting different patterns.

Regulatory obligations

Importantly, monitoring the distribution of work, through an analysis of earnings, is consistent with barristers' regulatory obligations.

Rule C12 of the [Bar Standards Board \(BSB\) Handbook](#) forbids all regulated persons from discriminating unlawfully against any other person because of a wide range of characteristics, including but not limited to sex, pregnancy and maternity, race, and disability.

Further, Rule C110 contains detailed provisions which dictate that all persons regulated by the BSB must take reasonable steps to comply with the equality and diversity rules contained in the [BSB Handbook](#). These rules place obligations on barristers to ensure that chambers have:

- a written equality and diversity policy
- a written plan for enforcing the policy
- at least one Equality and Diversity Officer (EDO)
- regular reviews of the number and percentages of its workforce from different groups
- regular reviews of the allocation of unassigned work by collecting and analysing data broken down by disability, race and sex

- processes for investigating the reasons for any disparities in data
- means of taking appropriate remedial action.

Self-employed barristers must also ensure that the affairs of their chambers are conducted in a manner which is fair and equitable for all members of chambers, pupils and/or employees (as appropriate), which includes, but is not limited to, the fair distribution of work opportunities among pupils and members of chambers.

The BSB guidance to Rule C110 is clear that chambers are expected to use the means available to them under their constitution to take reasonable steps to ensure that equality and diversity policies are enforced.

It follows that there is an expectation from the BSB that earnings will be monitored to better understand the distribution of work by reference to disability, race and sex.

Moreover, chambers which take proactive steps now to ensure that earnings are being monitored and that any appropriate remedial steps are taken will find themselves in a far better position to address any complaints, concerns or grievances which might be raised in the future.

Structure of this guide

Section A: Methodologies - sets out various methodologies which chambers could deploy to analyse the distribution of earnings in chambers to understand whether there are any disparities in earnings. Some of the models are better suited to comparing larger groups, for example if chambers is balanced in terms of male and female members. Other models are more effective in comparing smaller groups with a larger majority.

Section B outlines practical steps which can be undertaken within chambers to remedy any difficulties identified during the monitoring process.

Annex A contains a flowchart outlining the practical steps which chambers should take as part of a monitoring process.

Section A: Methodologies

Model 1: High and low receipts vs seniority

The relevant protected characteristic of barristers with highest and lowest annual receipts is disclosed by reference to Call. This is a very simple initial analysis which allows chambers to easily identify if one group is consistently earning the most or the least in different call bands.

Example 1

Using model 1, chambers decided to disclose the sex of the barrister with the highest and lowest annual receipts by reference to Call.

Years' Call	Sex of barrister with highest receipts	Sex of barrister with lowest receipts
0-3	Female	Male
4-10	Male	Male
11-15	Male	Female
16-20	Male	Female
21-25	Male	Female
Silk	Female	Female

This showed that as women became more senior their receipts fell behind their male colleagues until they reached silk.

Example 2

Using model 1, chambers listed the race of the barrister with the highest and lowest annual receipts by reference to Call.

Years' Call	Race of barrister with highest receipts	Race of barrister with lowest receipts
0-3	White British	Black British
4-10	White Irish	White British
11-15	White British	British Indian
16-20	British Indian	White British
21-25	White British	Black British
Silk	White British	White British (All silks in chambers are White British)

Advantages:

- This model can be meaningfully be used even where there are small numbers in a group.
- This model provides the most “high level” analysis of earnings data and can indicate broad patterns.
- No actual earnings data is revealed so the analysis can be shared with other members.

Disadvantages:

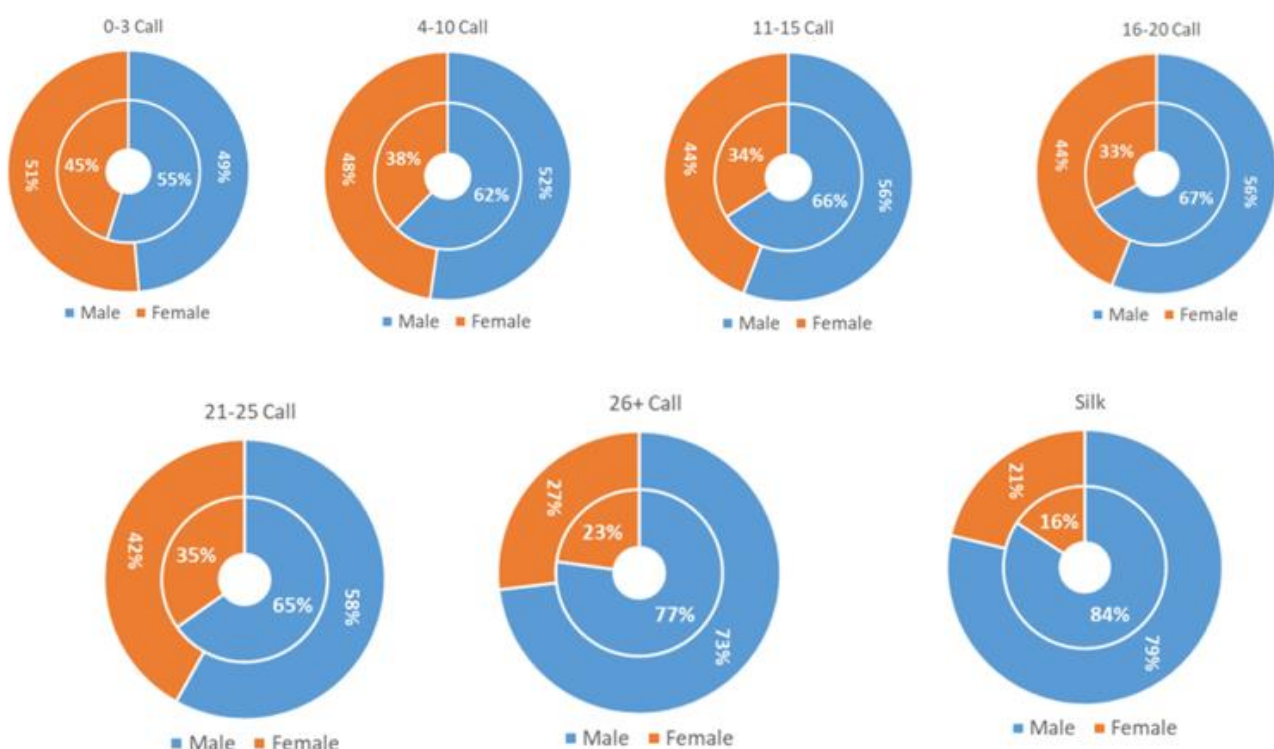
- It is insufficiently detailed to demonstrate the degree of any earnings disparities relating to sex or race, or the extent of the problem.
- If there are members of chambers with unusually low or high earnings, it may very easily lead to an unrepresentative view of chambers.

Model 2: Earnings expressed as a percentage within Call bands

Annual receipts within specific Call bands are expressed as a percentage by reference to a protected characteristic. This would allow chambers to identify which group benefits from the greater portion of earnings being received into chambers. This model also represents the overall number of barristers within each Call band as a means of creating a meaningful comparison between the absolute numbers in any band and the way in which earnings are then distributed to them.

Example 1

Using model 2, chambers added up all receipts of barristers within a particular call band and then represent in a pie chart the percentage of those earnings which were received by men vs women. In addition, outer rings were included which showed the gender breakdown within each Call band so that the data in each chart could be compared.



Advantages:

- This model creates useful visuals which can highlight the extent of any earning disparities.
- No earnings data is revealed which may be considered attractive by some chambers.

Disadvantages:

- Some of the pie charts might become unrepresentative if there are unusually high or low earning members of chambers.
- This model requires some data processing resource within chambers.

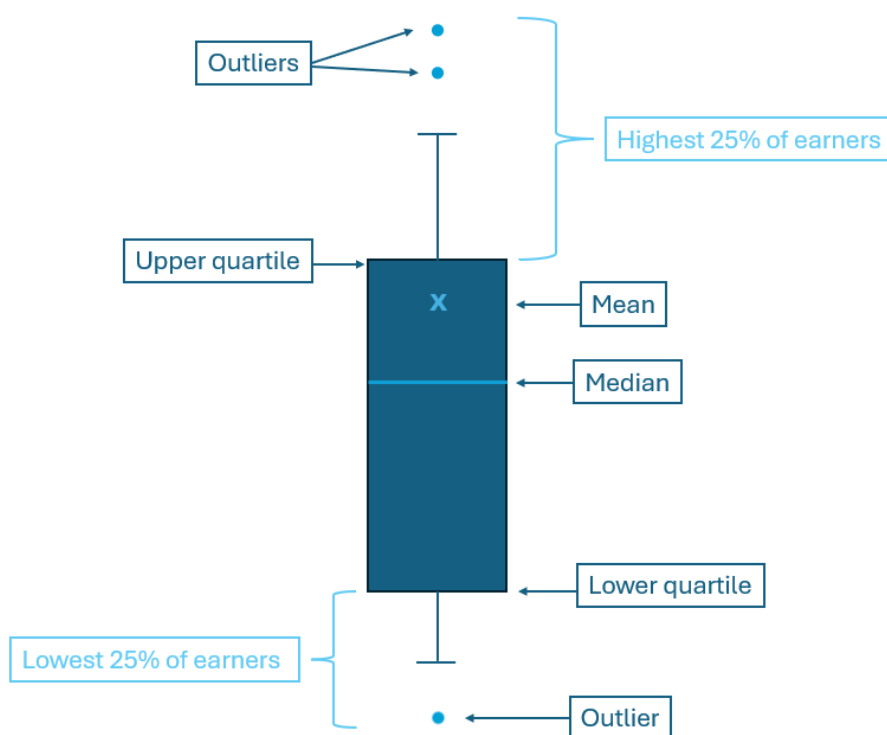
Model 3: Earnings spread across Call bands

Because every practice is different, it can be useful to look at the spread of earnings across chambers, rather than just averages. This will enable you to gain an understanding of what different groups are earning, what “good” earnings look like and where to focus more attention.

Box and whisker charts are a good way of doing this. Using Microsoft Excel, they effectively summarise a set of data, showing how it is distributed. By creating charts for different groups, you can easily compare and understand if their earnings are consistent, or whether the earnings for a particular group are higher or lower.

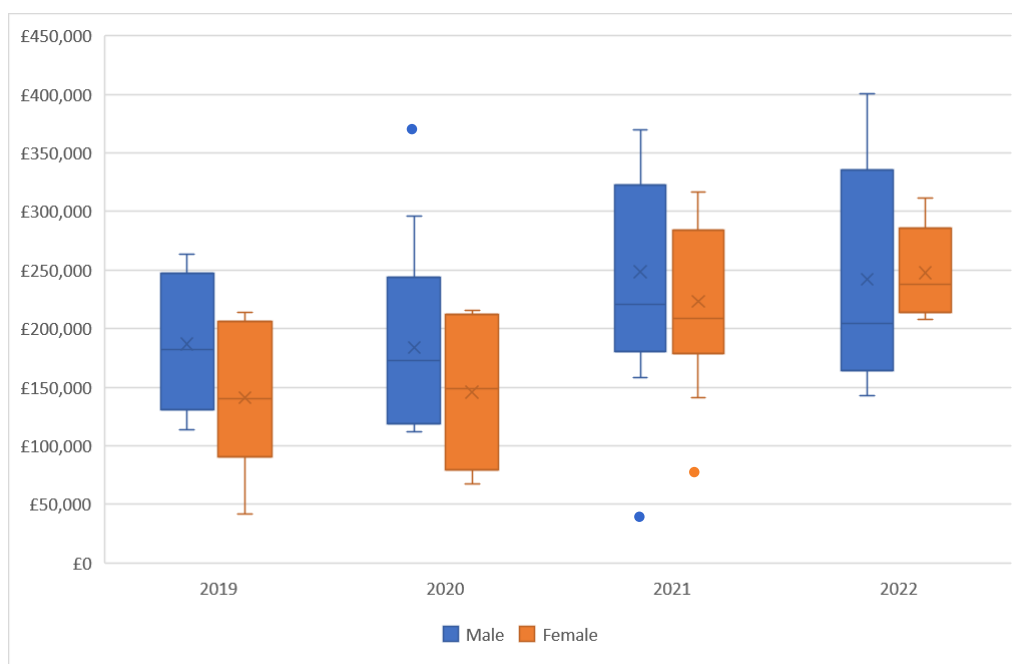
Using your data, half of your barristers will be represented by the box, showing the typical range of earnings for barristers in your chambers. A line is drawn through the median value (50% of barristers fall below the median line, and 50% above). The mean value is represented by an X and is usually within the box.

The highest 25% of earners fall outside the box and are represented by a line (whisker) extending above the box. Similarly, the lowest 25% of earners are represented by a whisker line below the box. Should any have earnings that are significantly higher or lower than the majority, these are called outliers and are represented by dots above or below the whiskers. Outliers are formally defined as those data points 1.5 times the inter-quartile range (the size of the box) above or below the box.



Example 1

Using model 3, chambers plotted the earnings for a cohort of their members over four years by sex in a box and whisker chart. There were only outliers in 2020 and 2021 and are shown as dots. In 2019, 2020 and 2021 women's mean and median earnings was less than men's even once outlier data was removed. In 2022, although the median range for women was higher than the men's, 30% of men earned more than the highest earning woman, and the highest earning man earned £170,000 more than the highest earning woman. In fact, in every year, the top quartile of women never earn more than the men's earnings in the mid-quartile, meaning the men's earnings ceiling was much higher. This is a worrying pattern which this model reveals.



Advantages:

- This model shows the range of earnings for the whole cohort, and the distortion effect of outliers is reduced.
- Disparities and trends over time can be spotted immediately.
- This model can be used to then support discussions in practice reviews where barristers are additionally shown where their earnings plot on the chart to provide a more individualised view.

Disadvantages:

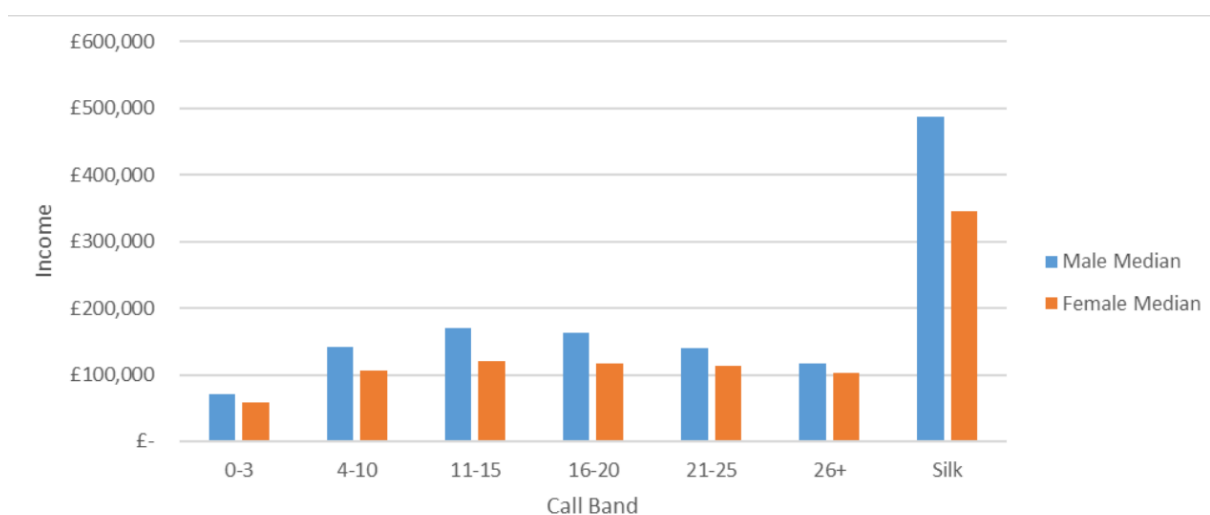
- Actual earnings data could be revealed, although without naming specific members, which may be challenging in smaller sets.
- This is a trickier analysis to execute, and some additional training/support may be needed by some chambers.

Model 4: Average receipts vs seniority

Average annual receipts of members of chambers within certain Call bands are plotted against Call according to a protected characteristic. This enables you to demonstrate the extent to which there is a disparity between average receipts between groups in the same Call bands.

Example 1

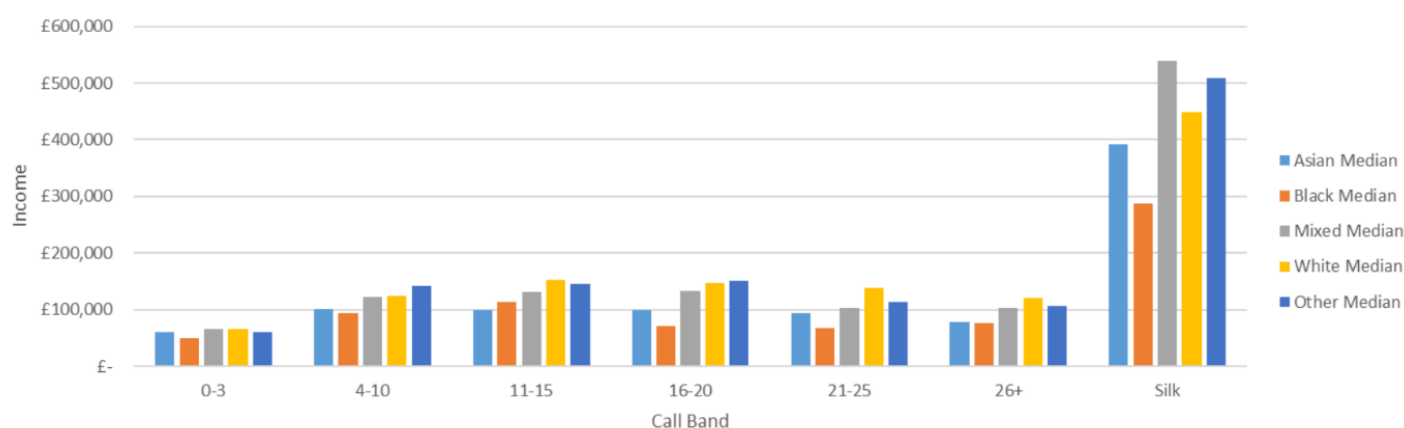
Using model 4, chambers created a table which plotted the median annual receipts of different Call bands with reference to sex. It demonstrated a clear disparity between men and women, which peaks at 11- 16 years Call. It also demonstrates a clear disparity for silks.



Example 2

Using model 4, chambers created a table which plotted the median annual receipts of different call bands with reference to race. Because of small numbers they brought together groups under the five broader ethnic group headings. It demonstrated clear disparities in earnings for different ethnic groups, with Black barristers' median earnings the lowest in all but one Call band.

Additional option



It can be useful to calculate the earnings gap which the numbers reveal, as this can show a pattern.

Example 3

Here chambers calculated the ethnicity pay gap for each practice area (this compares the average earnings of White people with the average for all other ethnic groups).

In this example, chambers established the following ethnicity pay gaps:

Call band	Ethnicity pay gap
0-3 years Call	12%
4-10 years Call	17%
11-15 years Call	7%
Over 15 years Call	6%
Silk	14%

Advantages:

- Since this model uses median earnings, and as long as there are significant numbers in each group, the data is less skewed by outliers
- The gaps between groups can be revealing

Disadvantages:

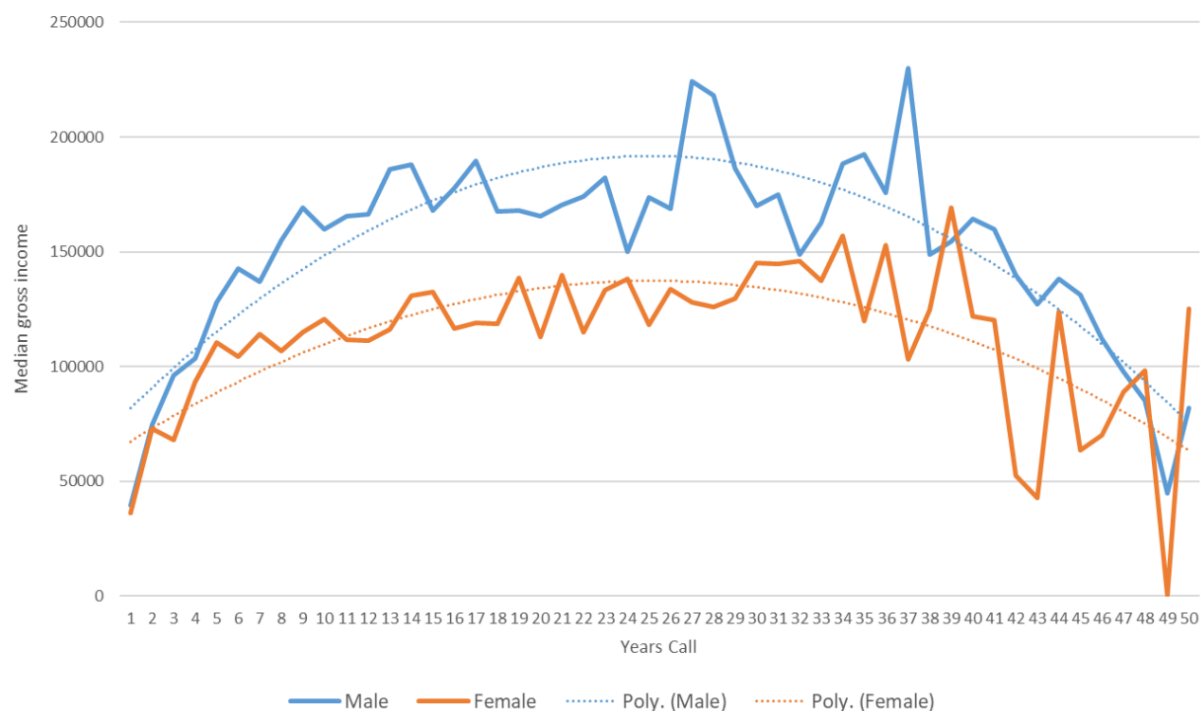
- The model is less appropriate for smaller sets, or where there are fewer members in each group.
- The mean or average can hide a huge variation in earnings, especially where one group is significantly larger than all the other groups.
- This model reveals actual earnings data as opposed to relative earnings data which some chambers might consider unattractive.

Model 5: Actual receipts vs seniority

Actual annual receipts are plotted against Call according to sex rather than averaged (as in model 3). This reveals any disparity in actual earnings between men and women within the same bands.

Example

Using model 5 for the financial year 2019/2020, chambers created a chart which plotted Call against annual receipts by sex and Call for all members. It shows that men earn more than women until 49 years' Call – the numbers at the end represent a small number of barristers.



Advantages:

- This model allows chambers to see disparities in earnings very clearly
- Whilst outlier data would skew the chart, it would be more obvious where that was happening since the data is represented in increments by Call rather than Call brackets

Disadvantages:

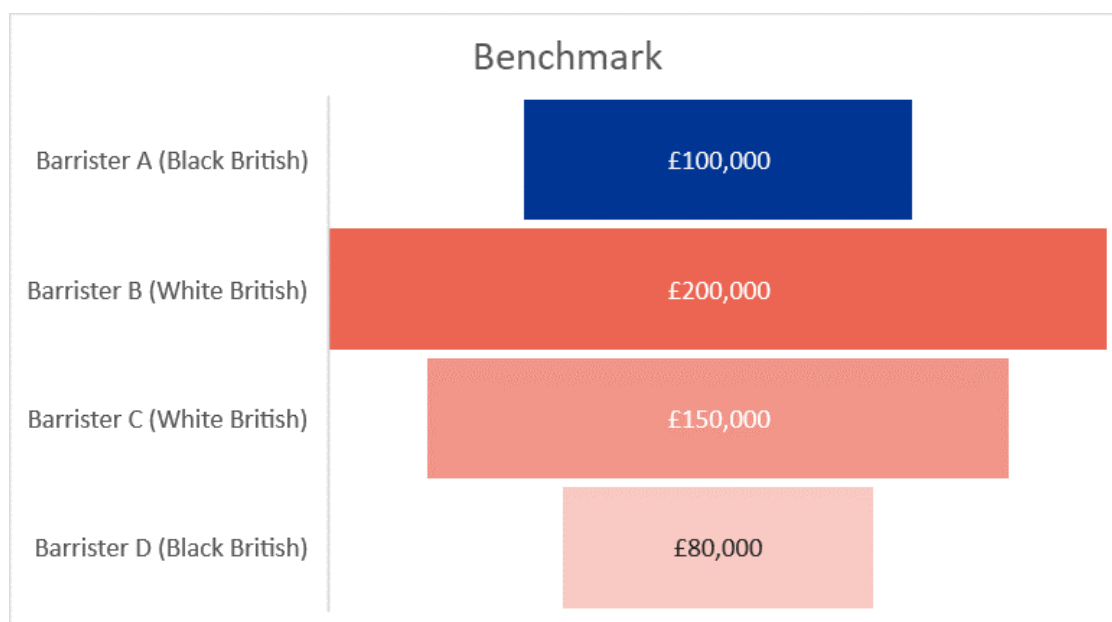
- This model reveals actual earnings data as opposed to relative earnings data which some chambers might consider unattractive
- There is a risk individual earnings will be obvious in this model, especially where there are small groups in each Call year

Model 6: Benchmarking

Each barrister in chambers is placed in a group alongside their peers and their earnings data compared to their peers. Where a barrister's earnings is out of sync with their peers, the protected characteristic of the barrister and their peers can be identified to understand if there is a pattern. This analysis is shared with the barrister and steps can be taken to identify any barriers at play and an action plan put in place, including additional earnings monitoring.

Example 1

Using model 6, chambers benchmarked each barrister alongside a group of their peers. Based on the size of the chambers and Call range, it was decided that 'barrister A' should be placed in a peer group with three other colleagues who were the same Call as him and in the same practice group.



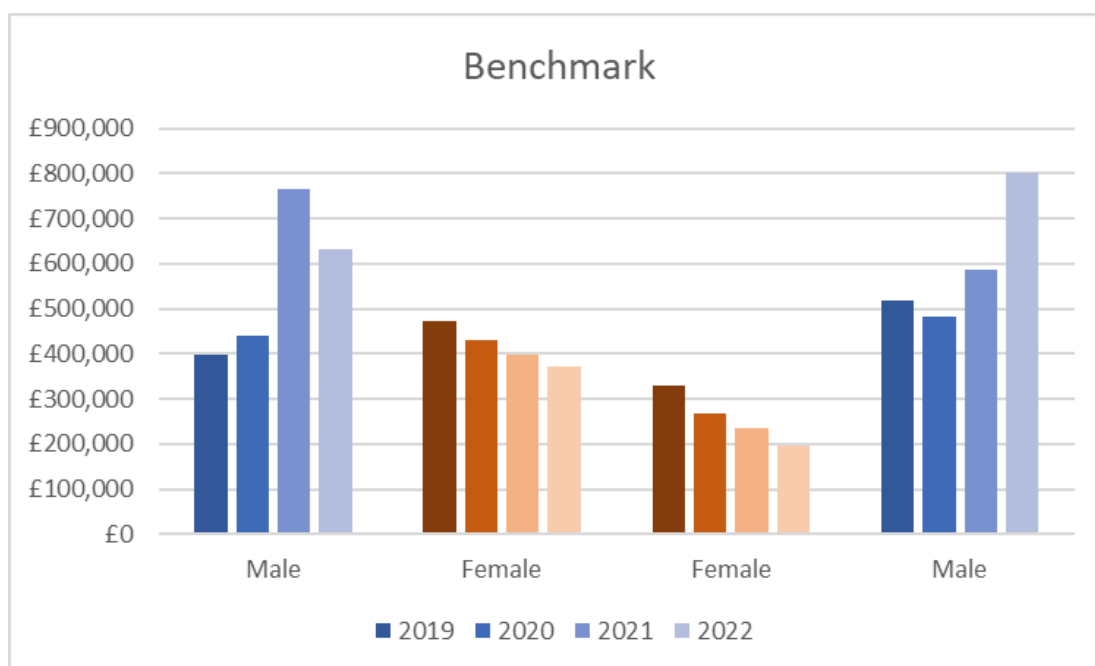
This analysis revealed that 'barrister A,' who is Black British, was earning significantly less than two White British peers, but more than another Black British barrister. This information is shared with 'barrister A' and it triggers a deep dive into his instructions in comparison to his peers. It is concluded that 'barrister A' is not being led to the same degree as his White British contemporaries, who are regularly chosen for lucrative work by a well-known Silk in chambers. In consultation with 'barrister A,' a plan of action is put into place to ensure that he has equal opportunities to access this and equivalent work.

Example 2

Using model 6, chambers reviewed earnings over the past five years and compared members within the same Call band and practice group. They found that the two women in the group had lower earnings each year than their male colleagues, and the gap between men and women in the cohort was widening.

With this data, chambers reviewed the distribution of work for this cohort and found that the women were undertaking fewer, higher earning cases, but the men were taking on more cases - and this had a significant impact on earnings.

Conversations in practice review meetings revealed one of the women had significant caring responsibilities and did not have capacity for more work, but the other was keen to increase her earnings and work with her clerk to increase her workload sustainably.



Advantages:

- Benchmarking can get to the heart of disparities
- This model can be used when groups are small
- This is an effective way of assessing which members are falling behind or need support to get on the right trajectory
- It can be a useful way to start a conversation within a practice review meeting and put in place individual interventions

Disadvantages:

- Identifying comparator groups is a skill, it requires the right information and curiosity to dig deeper into barristers' practices
- Actual earnings need to be compared to reveal emerging patterns
- It is possible to have a conversation with one member of the comparator group without revealing who else is in the group, but inevitably members will try and guess who their comparators are, and in a small set it may be obvious.

Model 7: Individualised data

Annual receipts from all members of chambers are collated and shared within chambers.

Example

Using model 7, chambers created a table that showed all barristers' receipts, over the previous three years. Members were encouraged to review their earnings against their colleagues and consider benchmarking their own practice against their comparators.

Barrister	Call group	Earnings 20/21	Earnings 21/22	Earnings 22/23	Notes – include any information relevant to the model including significant time away from practice
Name or other identifier	Year of call or group. Practice group can also be added	Total billings in the period	Total billings in the period	Total billings in the period	This can include: <ul style="list-style-type: none">any non-billing periods, including parental leave, sabbaticals etcwork patterns that could significantly impact on billings e.g., other work resulting in minimal billings, fixed shorter working weeks, term-time working etc

Advantages:

- This is the more transparent model in that it lists the name of the individual against their earnings.

Disadvantages:

- One major downside is that it simply presents data rather than analysing it and themes or patterns are likely to be missed
- Data could be misinterpreted when the whole story behind earnings is not understood
- There is a risk that this approach has a particularly negative impact on lower earners who may fear getting a reputation for not being as good as others in the set

Factors to consider when choosing a model

It is useful to take the data and explore all the models, as different patterns will emerge. Once you have done this you can assess which models would be useful to include in any report for chambers. Factors to consider include:

- Is there likely to be resistance to earnings monitoring? Earnings monitoring may represent a significant change for some chambers, and there could be resistance. While some of the models provide very high-level information about patterns and differences in earnings for different groups, other models, if shared, would give more people a line of sight on what different members, or at least groups of members, are earning. Chambers benefit from undertaking reviews that explore all the models to identify patterns, but what is then shared more widely in chambers should be considered carefully, and a cautious approach might be needed in the first instance.
- It may be appropriate to have different models for different committees. For example, the most transparent models might be most appropriate for a dedicated earnings committee which is tasked with ensuring that proactive steps are taken to eliminate inequality. Whereas the remaining models, which involve the sharing of less personal information, might be more suitable for sharing with all members of chambers.
- The models can be tailored to suit chambers' needs. There are numerous variations within each model which could be used to tailor the process according to the structure of chambers, such as:

Collecting data over shorter or longer time periods e.g., quarterly reviews

This might be more appropriate where there is limited annual variation in receipts so that meaningful monitoring can occur more often. This in turn will ensure that any equality issues are detected sooner rather than later. Comparing over longer periods, including year-on-year comparisons can help to identify trends and anomalies.

Using billings data rather than receipts

If there is a wide discrepancy between billings and receipts because there is a high default rate. Focusing solely on receipts might provide a misleading picture of the work which a barrister is receiving. Equally, if there is a long delay between billings

and receipts, receipts might not provide an accurate picture of barristers' workload at the time of analysis. The main thing is to compare data consistently, once you pick one, do the same for all members, and each time you do the analysis so you can compare changes over time.

Call or post-qualification experience (PQE)?

The Bar Council publishes gross earnings data organised by Call band but many chambers find it more useful to use PQE as it reflects actual experience in practice. For the analysis, it does not matter which you use if it is consistent across all members.

Grouping data according to practice group or speciality

Many chambers will accommodate a wide variety of practice areas between which earnings vary a great deal. In those circumstances, it may be more sensible to analyse earnings data within each practice group or specialty.

Members of chambers may legitimately identify other modifications to the models provided that they do not prevent meaningful analysis of earnings patterns for different groups.

Personnel involved in modelling

Before modelling is undertaken, chambers should decide who should do it, what information to use and which committees, members of chambers and other individuals will be entitled to see the outcome of the modelling.

Ideally, the Data Diversity Officer (DDO) should be responsible for collating the necessary information and carrying out the analysis. A guide to the role of the DDO, whom all chambers should have appointed, has been published by the Bar Standards Board.⁸

⁸ See 'Supporting Information – BSB Handbook - Equality Rules', pages 19-24, which is available at <https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/8b833ea5-5d8f-4d67-a1156687cbdcce27/Supporting-Info-Chambers.pdf>.

The DDO, together with the EDO, should already be gathering and analysing the data diversity information that chambers are obliged to publicise on their websites under the code of conduct.⁹

Using the DDO for this exercise is the best option if they are an employee. However, if they are also a member of chambers, there may be concerns about them having visibility of information that details other members' earnings. In this case, the role of collating and analysing the information should fall to another trusted employee of chambers, ideally someone with understanding and insight into financial data such as a senior fees clerk.

The person collating the data should also liaise with the EDO and members of any earnings committee to work out which model of presenting it would work best for their chambers, in accordance with the guidance set out above.

The person collecting the data should then ensure they have the systems and software at their disposal. Most chambers management software packages allow you to collate the data and generate reports. Contact the provider for more information.

Once the methodology has been chosen, the DDO or staff member should collate the relevant data and prepare the analysis, before presenting both to the EDO (unless they are the same person which does occur in some chambers). The EDO will then decide how the analysis should be presented to chambers management committee. Consideration should be given as to whether any data should be anonymised. It is possible that the information should be presented on an anonymised basis.

It is important that no one can influence the DDO or EDO to conceal any differentials before they are discussed at a management committee level.

There should also be a plan in place to ensure that appropriate information is provided to all members of chambers once the modelling has been completed. This does not necessarily mean that members of chambers are entitled to see all the modelling information, but, at the very least, they should be informed of the broad conclusions which the modelling exercise has revealed.

⁹ See 'Supporting Information – BSB Handbook - Equality Rules', page 19, which is available at <https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/8b833ea5-5d8f-4d67-a1156687cbdce27/Supporting-Info-Chambers.pdf>.

Special cases

Quantitative evidence derived from the data collation and modelling may not provide the whole picture of some individuals' access to work and earnings in any period. For example: a barrister may have been undertaking a period of parental leave, sabbatical leave, compassionate leave, or a barrister may have a disability which restricts their practice or there may be personal matters which have limited their ability to work.

Nevertheless, the presence of such individuals within the data set should not be used as an excuse either to exclude them from the data collation exercise entirely or simply to discount them from the overall final analysis. Instead, the Bar Council encourages chambers to include all members in the data collation in the first instance and only then consider carefully whether factors have affected individual data.

In some circumstances it may be appropriate to safely discount their data (for example, an unexpected period of absence due to an accident) but chambers should be careful not to exclude data which may be relevant when determining whether a protected characteristic has a role in earnings.

For example, it might be tempting to remove the earnings data of women returning from maternity leave on the basis that this period of time is not necessarily representative of their practice. However, understanding the impact of maternity leave on women is an important matter if chambers are to proactively ensure that new mothers can thrive when they return to work and the impact on them financially is minimised.

Where there is outlier data, it would be safest for chambers to annotate or otherwise record the reasons for unusual or exceptional data rather than remove it altogether.

Alternatively, if the inclusion of outlier data truly leads to misrepresentation of the overall picture, then rather than deleting the outlier data, modelling should be undertaken both with and without the data so that there is full transparency. This will ensure that inconvenient data is properly analysed and understood rather than simply discounted.

Finally, undertaking the data collation and modelling on an annual basis should enable chambers to track whether outliers are overcoming any earnings disparities or whether they are continuing. This will be valuable information when it comes to taking proactive steps to remedy any problems faced by individual members of chambers or certain groups.

Confidentiality

Chambers will need to consider the right approach towards confidentiality to ensure that sensitive commercial information is not shared externally. Constitutions and relevant policies should be reviewed carefully.

Further, where personal information concerning earnings data and protected characteristics are being analysed then the UK GDPR is likely to be engaged. Potentially, special category might also be processed depending on the methodology and approach adopted by chambers. Ordinary personal data and special category data can be lawfully processed provided one of the conditions in Articles 6 and 9 are met. Chambers should carefully consider which provisions of Articles 6 and 9 (if applicable) will apply to their earnings monitoring activities. Chambers should also ensure that the earnings monitoring process complies with the data protection principles embodied in the UK GDPR.

Communicating the earnings monitoring process

It is crucial that chambers explain to members why earnings analysis is being undertaken and its important role in monitoring how work is distributed which in turn demonstrates a commitment to equality and diversity within chambers.

It should be stressed that monitoring earnings data by reference to protected characteristics is not a threat to high earners in chambers. Committing to sharing outcomes and repeating the process annually should alleviate concerns in the long term.

A commitment to equality and diversity will attract the best candidates in the future, lead to retention of talent and reinforce the notion that chambers are part of the modern world where earnings monitoring is now the norm. This is why it is

important that the lessons learnt from internal modelling is shared appropriately rather than being withheld.

Section B: Practical steps

If monitoring of gross earnings reveals disparities linked to protected characteristics, these are some of the practical steps that chambers can take:

Chambers leadership or /committees:

- Create an internal taskforce to lead on identifying ways in which chambers can support barristers, especially those from under-represented groups or who are falling behind their peers, reach their full potential
- Organise mandatory training (or refresher training) for barristers and their staff on the equality and diversity rules and fair allocation of work. The Bar Council offers these courses (<https://www.barcouncil.org.uk/training-events/training-and-workshops.html>). This can be a useful space within which to explore and challenge stereotypical views.
- Ensure policies on fair access to work, parental leave, discrimination and harassment, flexible working and reasonable adjustments meet recommended best practice as well as comply with the minimum BSB Handbook standards and guidance; see, for example <https://westerncircuit.co.uk/wp-content/uploads/2019/11/Back-to-the-Bar-Retention-and-Progression-After-Parental-Leave.pdf>
- Use or adapt existing software packages to monitor unassigned work and allocation between those with protected characteristics, and the extent to which juniors are led by seniors in chambers, and regularly to review patterns and potential remedial measures
- Consider moving to greater or complete transparency in chambers about the monthly earnings levels of identified individuals to encourage the fair allocation of work
- Encourage constant communication and regular meetings with clerks or practice directors with a view to positive engagement on how a barrister is progressing, if they are happy with their workload and support and to review home/work

balance, career planning, wellbeing, and finances. It may be appropriate to agree a firm plan of action with regular review meetings.

Senior clerks or practice managers:

- Put in place regular and effective practice review meetings which includes:
 - Discussion about whether the member is happy with their practice, the sort of work they are getting and earning levels
 - Feedback from clients, solicitors, colleagues
 - A review of flexible working – do members feel supported and able to achieve the balance they want
 - Analysis of the marketing members have engaged in and support to be more active in marketing (if appropriate)
 - Long term plans – what are the member's ambitions and what support do they need to get there
 - An action plan which can be reviewed at each meeting

Read the Bar Council's [Practice Review Guide](#) for more information.

- Review the ways in which briefs are distributed:
 - How is unallocated work distributed?
 - How do clerks discuss and promote barristers to solicitors?
- Review marketing opportunities:
 - Who is engaging in marketing?
 - Are some barristers missing out because the time, location, or activity does not work for them?
 - Are some practice areas better supported by marketing than others?
 - Is sufficient notice of marketing events provided so that childcare can be arranged?
- Are there any unconscious prejudices about some barristers and the types of work that they do e.g., high value, commercial, corporate clients being better suited to some barristers?
- Are all barristers given sufficient opportunities to highlight their expertise, for example, delivering workshops, papers, or lectures?

Members of chambers:

- Do senior barristers lead juniors in an equitable way? If not, do you need a system to ensure everyone has access to these important opportunities?
- Do you engage in practice review meetings and support a culture of ongoing feedback and active practice management? If this approach becomes the norm, those who are being left behind will be better supported.
- Do all barristers get included in and invited to networking events?
- Do some colleagues have greater one-to-one time with clerks or sponsors than their counterparts, for example, lunches or afterwork drinking?

For further information on equality and diversity initiatives, the Bar Council has issued numerous guides, tools and advice packs to assist barristers and their staff which are available on [the ethics and practice hub](#).

October 2023

Annex A: The whole process

