



## BAR COUNCIL EQUALITY & DIVERSITY GUIDES FAIR ACCESS TO WORK

Ensuring **everyone** can develop the practice that they want, and has the talent to achieve, is key to supporting the retention and progression of all barristers.

We know that barristers from under-represented groups, including women and barristers from an ethnic minority background earn less than their male, White colleagues<sup>1</sup>.

A huge amount of work is underway across the Bar to tackle earnings inequality. Transparency with respect to approach is key. We believe having a comprehensive **fair access to work** policy can support chambers by bringing together factors that support transparency and fairness. These include the allocation of unallocated work; chambers' approach to led work and billing; marketing (inc. chambers' approach to directory entries); earnings monitoring and reporting; practice review; remedial action, as well as work distribution complaints handling.

This guide and policy template covers the key areas we believe any fair access to work policy could cover, but we do not prescribe any specific approach. Every chambers will be different, and any policy will be influenced by chambers' culture/established practice, the size of chambers, practice area and the wishes of members.

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<sup>1</sup> See [Bar Council's annual earnings reports by sex on our website](#)

## Legal and regulatory obligations

### The Law

Under the Equality Act 2010 (“EqA”) it is unlawful for anyone (including professional clients and clerks) to select counsel based on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation. These are all protected characteristics.

Examples of discriminatory instructions might include a request from solicitors to barristers' clerks for a female barrister to prosecute a rape case, or for an Asian barrister to advise/represent Asian clients.

All the following would be unlawful under the EqA:

- For a solicitor to give instructions to a female barrister because of her sex, thereby treating a comparable male barrister less favourably;
- For a solicitor to give instructions to a barrister because he is Asian, thereby treating a comparable non-Asian barrister less favourably (for the purposes of the EqA, ‘race’ includes colour, nationality and ethnic or national origins);
- For a male barrister to accept instructions, knowing that he is being instructed for reasons related to his gender, and where a comparable female barrister in chambers will be denied an opportunity to gain experience or otherwise suffer a detriment; and
- For a barrister's clerk to comply with a client's request to allocate work to a White barrister, or suggest someone on the basis that they are White

**TIP:** More guidance on discriminatory instructions and how to respond to them is available on the Bar Council Ethics Hub<sup>2</sup>

### Regulatory Obligations

**Rule rC12** in the [BSB Handbook](#) forbids all regulated persons from discriminating unlawfully against any other person because of a wide range of characteristics.

**Rule rC89** in the [BSB Handbook](#) states you must take reasonable steps to ensure that your chambers is administered competently and efficiently.

**Rule rC110** (in the [BSB Handbook](#) excerpt below) 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:

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<sup>2</sup> [https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/Discriminatory-Instructions-Updated-Guidance\\_Reviewed-Oct-2018.pdf](https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/Discriminatory-Instructions-Updated-Guidance_Reviewed-Oct-2018.pdf)

- regular reviews of the allocation of unassigned work by collecting and analysing data broken down by gender, race and disability
- processes for investigating the reasons for any disparities in data, and
- 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**. This means the rules don't limit analysis to unassigned work, and for chambers to comply with the spirit of this rule, they should monitor the distribution of all work opportunities.

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.

### **Rules C110-C112 - Equality and Diversity Rules**

**rC110** You must take reasonable steps to ensure that in relation to your chambers or BSB entity:

.3 the following requirements are complied with:

Equality monitoring

.f subject to Rule rC110.3.h chambers or BSB entity regularly reviews:

.iii in the case of chambers, the allocation of unassigned work

.g the reviews referred to in Rule rC110.3.f above include:

.i collecting and analysing data broken down by race, disability and gender;

.ii investigating the reasons for any disparities in that data; and

.iii taking appropriate remedial action;

.h the requirement to collect the information referred to in Rule C110.3.g does not apply to the extent that the people referred to in Rule rC110.3.f.i and Rule rC110.3.f.ii refuse to disclose it.

#### **Fair access to work**

.i if you are a self-employed barrister, the affairs of your chambers are conducted in a manner which is fair and equitable for all members of chambers, pupils and/or employees (as appropriate). This includes, but is not limited to, the fair distribution of work opportunities among pupils and members of chambers;

**rC112** For the purposes Rule rC110 above "allocation of unassigned work" includes, but is not limited to work allocated to:

.1 pupils;

.2 barristers of fewer than four years' standing; and

.3 barristers returning from parental leave;

## **Guidance to Rules C110-C112**

**gC140** Rule rC110 places a personal obligation on all self-employed barristers, however they practise, and on the managers of BSB entities, as well as on the entity itself, to take reasonable steps to ensure that they have appropriate policies which are enforced.

**gC141** In relation to Rule rC110, if you are a Head of chambers or a HOLP it is likely to be reasonable for you to ensure that you have the policies required by Rule rC110, that an Equality and Diversity Officer is appointed to monitor compliance, and that any breaches are appropriately punished. If you are a member of a chambers you are expected to use the means available to you under your constitution to take reasonable steps to ensure there are policies and that they are enforced. If you are a manager of a BSB entity, you are expected to take reasonable steps to ensure that there are policies and that they are enforced.

**gC147** Rule rC110.3.f.iii places an obligation on practices to take reasonable steps to ensure the work opportunities are shared fairly among its workforce. In the case of chambers, this obligation includes work which has not been allocated by the solicitor to a named barrister. It includes fairness in presenting to solicitors, names for consideration and fairness in opportunities to attract future named work (for example, fairness in arrangements for marketing). These obligations apply even if individual members of chambers incorporate their practices or use a “ProcureCo” to obtain or distribute work, as long as their relationship between each other remains one of independent service providers competing for the same work while sharing clerking arrangements and costs.

**gC150** For the purposes of Rule rC110 above investigation means, considering the reasons for disparities in data such as:

- .1 Under or overrepresentation of particular groups e.g., men, women, different ethnic groups or disabled people
- .2 Absence of particular groups e.g., men, women, different ethnic groups or disabled people
- .3 Success rates of particular groups
- .4 In the case of chambers, over or under allocation of unassigned work to particular groups

**gC151** These rules are supplemented by the BSB’s Supporting Information on the BSB Handbook Equality Rules (“[the Supporting Information](#)”) which is available on the BSB’s website. These describe the legal and regulatory requirements relating to equality and diversity and provide guidance on how they should be applied in chambers and in BSB entities. If you are a self-employed barrister, a BSB entity, or a manager of a BSB entity, you should seek to comply with the Supporting Information as well as with the rules as set out above.

## Complying with the regulations

The Fair Allocation of Work rules require every chambers to **‘take reasonable steps to ensure the work opportunities are shared fairly among its workforce’**. This extends to ensuring names of available barristers are fairly presented to solicitors/clients, and barristers have fair opportunities to attract future work, which could be access to formal and informal marketing opportunities. It also covers led work opportunities.

## Definitions

Existing rules and guidance in relation to Fair Allocation of Work relate in the main to **unassigned work**.

- Solicitors will often ask for specific barristers, either due to existing professional relationships or knowledge of expertise. **This is allocated work.**

or

- A solicitor requests a list of qualified and available barristers to be put forward for their case without mentioning a name or quote their own list of potential names. **This is unassigned work.**

There are also instances that have come to be termed as **‘partially allocated work’**. Partially allocated work is a work opportunity that is presented to chambers by a solicitor who requests the availability of more than one named barrister. This, arguably, falls either side of allocated and unallocated.

**TIP:** As these ‘partially allocated’ opportunities are not limited to a single barrister, and the clerk / practice manager has a degree of influence and input, it is important that allocation data is also collected for this type of work. Moreover, many sets find that partially allocated work is open to suggestions of other barristers outside the list requested by the solicitor.

## Principles of Clerking

Barristers can be clerked in many different ways. Different chambers will have different set-ups which may be influenced by their size and the nature of the work covered. Some more traditional sets may be run by the Head Clerk; others may have clerking teams working alongside a CEO or equivalent. It is important that there is an agreed approach to clerking within chambers and that great clerking is encouraged. Members should have an opportunity to discuss chambers’ approach to clerking and periodically review this approach. Everyone should be clear about who gets work and how work gets distributed. Transparency over chambers approach (its ‘principles of clerking’) and a collective agreement on it by members is key to successfully implementing any Fair Access to Work policy. These discussions can be supported by clearly articulating the business case for any approach adopted (for example, to support the resilience of chambers and/or the collective responsibility to strengthen junior members). Clarity about chambers’ **‘principles of clerking’** should reinforce the support available for any individual member, alongside chambers’ approach to its members in relation to promotion, marketing, billing, as well as unassigned and led work.

## Unassigned work

The rules require chambers to ensure that work opportunities are shared fairly, so this means responding to the client with a list containing the details of barristers who are available, appropriately qualified and experienced and who would be suitable for the case.

The rules do not require chambers to present a list of **ALL** the barristers who are available. For example, a solicitor should not be given a list including juniors for a silk's case, or a silk for very junior work. Nor should they be offered a pupil or newly qualified barrister for an evidently complex matter. Chambers are also able to consider the distribution of work across members, putting forward those who may not have had opportunities or who need to build their experience or practice.

Each case is different but as a rule of thumb around 5/6 names is sufficient to offer a range of counsel and comply with the rules. Clerks and practice managers are expected to exercise judgement and demonstrate their knowledge of members of chambers and their expertise to suggest barristers who are appropriate for each case opportunity. This filtering would typically include call band, specialist area, panel membership, experience and availability, as well as other relevant criteria.

There is nothing in the rules preventing clerks and practice managers using their knowledge of the barristers in their set, and their clients, to ensure the lists they pull together contain the right people for the job. The rules are there to ensure that this is done fairly, without discrimination or favouritism, and that barristers overall get fair access to the work coming into chambers.

The following should be agreed...

- If a person with less experience can be put forward and possibly at a lower fee in order to diversify their practice
- How a barrister is presented to solicitors e.g. skill set not just legal knowledge
- How barrister's recommendations of colleagues should be recorded

**TIP:** The Bar is a referral profession, and barristers are regularly asked who they recommend if they themselves are not available/appropriate for a case. These recommendations have enormous power and impact on work distribution. It's unrealistic to have a rule prohibiting barristers from making recommendations to clients about colleagues and could get in the way of effective client management, but it isn't fair or tolerable to have a system where recommendations are based on popularity or 'clubability'.

Chambers need to foster a much deeper understanding by barristers of their own biases and the impact of favouritism on the careers of others, in particular those from groups who are under-represented at the Bar and then build agreement around the basis on which recommendations should be made.

Ideally, when a client asks for a recommendation, a barrister will ask their clerks or practice managers for information about who has the experience, availability and

capacity to take on the work, and that information, coupled with other objective analysis, should form the basis of any recommendation.

It can be useful for chambers to keep a record of recommendations made by members as this can provide useful management information and aid chambers to identify unfair practices if they arise.

**TIP:** Members of chambers should agree an approach to responding to unassigned briefs and ensure this is followed.

## Led work

For some practices, and in particular practice areas, led work is extremely important as it enables juniors to gain experience, work with the right people and build their network. The difference between those who have led work opportunities and those who don't can be significant in terms of earnings, retention and progression (taking Silk).

For this reason, taking control of the distribution of led work opportunities can be very important for chambers. Ensuring all juniors can build experience and skills results in a stronger pool of available talent and supports the retention and progression of all members.

### Example 1

For juniors in Eddleston Chambers, having the opportunity to be led in complex cases is vital to building a strong practice and ultimately a successful silk application. But when opportunities come in, they are offered to all the available juniors, and inevitably those who have done similar cases before are chosen by clients. In fact, the last 5 opportunities went to the same 2 juniors, while 4 others haven't been led in several years. This has resulted in significant disparities in experience and earnings amongst juniors, which is having an impact on chamber's ability to meet the needs of clients, and frustration for some of the juniors.

To address this Eddleston's management committee agrees to the practice managers putting forward juniors in order, to help ensure everyone has the chance to do this work, and monitoring led work distribution to ensure there isn't disparities in outcomes.

There are several interventions which chambers can put in place to ensure all juniors have access to led opportunities, including:

- Treating in-chambers led work opportunities like other unallocated work, with a focus on sharing opportunities fairly
- Monitoring opportunities for led work, with a particular focus on 'plum' opportunities, and creating a system which ensures all juniors have the chance to be led
- Ensuring leaders and silks in chambers understand how important it is for chambers to build a strong and experienced pool of juniors, are supported to get to know all the juniors, and are encouraged to lead a diverse range of juniors, rather than always going back to the same one or two favourites.

- Reviewing how juniors are marketed and ensuring their web profile is as effective as it can be, that they have opportunities to meet and network with prospective clients and are supported to build their profile

## Marketing

Access to marketing opportunities including speaking opportunities, or events with clerks and/or clients can disadvantage some barristers if they are not given an opportunity to participate. There are still lots of examples where opportunities have been made available to a select few in chambers.

Ideally, chambers should monitor marketing opportunities offered/taken up to ensure members are given equal opportunity to interact with clients/clerks. There should be transparent processes in place, so every barrister is aware – and feels able – to access suitable marketing opportunities.

Further, if additional marketing support is available as part of any positive action initiative (for example, after return from a career break) or in response to a practice review, it should be time limited, and chambers' approach should be agreed.

Members should be actively encouraged to allocate time for marketing activity and discussions should be held about marketing during the practice review process.

**Directory entries** play a key role in marketing barristers and chambers should ensure that chambers' approach and effort put into securing places in directories is based on fair and transparent criteria.

## Remedial and Positive Action

There may be times when chambers decide to give precedence to a barrister for certain types of work or experience. This would fall within the Positive Action rules, and whether it is proportionate or not depends upon the factors relevant to the balancing test which is necessary to avoid exceeding the limitations set out in the Equality Act. In some cases, it will be more clearly legitimate, for example, to funnel some work opportunities to returnees from maternity or parental leave or to promote others to solicitors over their colleagues in chambers for a limited amount of time. In each case all competing relevant factors must be considered. What is proportionate in one instance may not be in another context.

A delicate balance exists between equal treatment and the permitted derogation for the principle of positive action. Positive action is more about levelling the playing field or treating people equitably. The key to legitimate action is in the pre-action thinking.

### Example 2

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 maternity or parental leave would be offered 1 in every 3 appropriate unallocated briefs which came into chambers for a 3-month period.



**TIP:** More information about the rules around positive action are available on the Bar Council Ethics Hub<sup>3</sup>

## Monitoring and reporting

### Unallocated work

Monitoring and reporting on fair allocation of unassigned work is a regulatory requirement. BSB Guidance suggests chambers should use existing software to generate reports on how work has come into chambers and how it is allocated. These reports should include whether the work came into chambers marked for a particular barrister/pupil, if a list was sent to the client, who the work was allocated to and who was responsible for allocating the work.

Chambers are expected to:

- record unassigned work as it comes into chambers (opportunities);
- record how they respond (who is on the list?);
- record the decision made, including reasons; and
- report outcomes to chambers management.

Reports on fair allocation of work, or opportunity reports, should include outcomes for groups of barristers, focusing on the protected characteristics sex, race and disability, and for those who are pupils, barristers of fewer than four years' standing and barristers returning from parental leave. This report should include details about:

- Under or overrepresentation of particular groups e.g., men, women, different ethnic groups or disabled people
- Absence of particular groups e.g., men, women, different ethnic groups or disabled people
- Success rates of particular groups and emerging patterns
- over or under allocation of unassigned work to particular groups

This exercise should pick up patterns of 'unallocated' work allocation. But while this approach will ensure compliance with the BSB's equality rules, it won't give an indication of how work more broadly is being distributed. It won't tell you if clients are consistently allocating work to a small cohort of barristers, ignoring other equally qualified members. Nor will it tell you if led work is being fairly and equitably distributed throughout chambers, or if some are being left behind. All this information is critical to business planning, practice management and marketing.

### Earnings monitoring

Monitoring earnings, either receipts or work done, can help chambers spot patterns, understand where interventions are needed and establish how well individual barristers are doing in relation to their comparator group.

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<sup>3</sup> <https://www.barcouncilethics.co.uk/documents/positive-action/>

Once chambers has gathered the data it can be used to understand which groups are thriving, and those who need more support by looking at patterns in earnings.

### Example 3

Denby Chambers spotted a large variation in earnings for new members in their first 3 years of practice. On further analysis it became clear that men in that group were earning significantly more than women, despite chambers' policy to encourage a broad spread of cases across practice areas in the first few years of practice.

The senior practice manager took a closer look at clerking, billing practices and led work opportunities, put in place new ways of working and will closely monitor earnings over the next 3 years to measure effectiveness.

Earnings should be monitored annually, when ideally data from the previous 5 years is analysed to identify patterns and any issues. It is possible to undertake this work while retaining confidentiality around earnings as the analysis can be done by a senior member of staff or using anonymised data. Frequent monitoring should give all members confidence that any problems will be spotted early, and that interventions and support are targeted where they are needed.

**TIP:** More guidance on monitoring earnings is available on the Bar Council Ethics Hub<sup>4</sup>

### NOTE: Equality Monitoring

To properly analyse allocation and distribution of work it is essential that chambers hold current equality monitoring information about members.

To carry out the analysis, this information can't be anonymised but must be confidential (see Page 16 of the Equality handbook<sup>5</sup>) "For the purposes of monitoring recruitment and unassigned work allocation, it is important that monitoring data should not be anonymous; it should be possible to link the equality data to the person to whom it relates. Without this, it is effectively impossible to monitor the recruitment and selection process at each stage or the allocation of work, without repeatedly asking individuals for their diversity data. The identity of individuals can be concealed in the analyses of data by identifying individuals only by a number that can be independently linked back both to their monitoring data and their name."

The most efficient way to capture and store this information is the use the chambers management system, most of which will generate the survey and populate the database. All of this can be done confidentially, and the information can be used to run earnings and opportunities reports.

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<sup>4</sup> <https://www.barcouncilethics.co.uk/documents/earnings-monitoring-toolkit/>

<sup>5</sup> Equality Handbook <https://www.barstandardsboard.org.uk/uploads/assets/eb082d32-1522-4995-980aa797a14cf2b4/4720f5e7-8d61-46e1-bd930c490b7f7897/02020403-Supporting-Information-for-Chambers-BSB-Handbook-Equality-Rules.pdf>

## Practice review

A practice review is a regular opportunity for clerks or practice managers and self-employed barristers to get together and discuss a barrister's practice in detail. For clerks or practice managers it is an opportunity to find out what support a barrister might need to ensure their practice is developing in the right direction and to help a barrister develop the knowledge and experience they need to ensure their practice is thriving.

Effective practice reviews are essential to ensuring barristers have the work they need to build a thriving and sustainable practice. And they provide an opportunity to share what's working and any feedback from leaders and clients – feedback which will help a barrister hone and perfect their skills and approach.

Every barrister should have a practice review at least annually, and they should be more frequent for new practitioners, barristers returning to practice after a period of leave or a secondment, those who are struggling or whose earnings are falling behind, and those who are thriving and looking to progress.

It is useful to embed your approach to practice review in a Fair Access to Work policy.

Each practice review will be different, but all should cover:

- Earnings – the expectations of the barrister and information to help them understand how their earnings compare to their comparator group.
- Feedback from clients/others whether positive or negative to support practice development.
- Short-term plans and targets for the next year – this could include discussions around earnings, practice area, client development, marketing etc.
- Longer-term plans and ambitions – this could cover discussion about silk and judicial applications, panel membership or more personal ambitions around family or work/life balance
- Life in chambers and wellbeing – this may be the only chance a barrister has to share issues which are troubling them or seek some support.

**TIP:** More guidance on practice reviews is available on the Bar Council Ethics Hub<sup>6</sup>

## Complaints

There should be a clear process for members to follow if they wish to make a complaint about access to work in chambers. This should be linked to your general approach for handling grievances. You may also wish to consider providing information about any earnings data that can be provided, and your approach to providing information on comparators (others in chambers of similar call/same practice area).

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<sup>6</sup> <https://www.barcouncilethics.co.uk/documents/practice-review-guide/>

## **Communicating your policy**

It's important that everyone is aware of and understands your approach to fair access to work. Clerks need to know exactly what they must do when work comes into chambers to ensure they are following the policy and complying with the regulations. But beyond the clerk's room, fostering a culture of where everyone understands the importance of ensuring all barristers have fair access to work is vital. Generating reports which highlight disparities; and being seen to act where some groups might need more support or a different approach, can build this understanding.

## **Support Available**

### **Resources:**

[Earnings Monitoring Toolkit](#)  
[Practice Review Guide](#)  
[Discriminatory Instructions](#)  
[Positive Action](#)

### **Research:**

[Gross Earnings by Sex and Practice Area at the Self-Employed Bar 2024](#)  
[Mind the early gender earnings gap at the Bar \(2024\)](#)  
[Gross Earnings by Sex and Practice Area at the self-employed Bar 2023](#)  
[Barrister Earnings by Sex and Practice area 2022](#)

### **Training:**

[Work distribution & Monitoring](#)

### **Bespoke advice & support:**

[enquiries](#)

## Appendix 1: Template access to work policy

### A. Introduction

1. 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 the early stages of their careers and even in pupillage.
2. Pupils and members of Chambers should be afforded the opportunity to develop their practices in a fair and equal manner, free from any discriminatory or stereotyped career assumptions that may exist. [Add para on ethos/agreed principles of clerking]
3. The purpose of this policy is to put in place effective procedures for:
  - (a) The monitoring of work allocation amongst pupils, third six/probationary tenants and members;
  - (b) Ensuring the fair distribution of work amongst pupils and members;
  - (c) Ensuring the fair distribution of opportunities to attract future work; and
  - (d) Responding to, and rectifying where appropriate, complaints and concerns about access to work.

### B. Regulatory Requirement

4. 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 amongst pupils and members of chambers.

### C. Monitoring of Work Allocation

5. Chambers will ensure that its practice managers use **XX** software to monitor Chambers' internal distribution procedures and instructing solicitors' briefing practices. The practice managers will be particularly aware of issues relating to the distribution of any unassigned work coming into Chambers, and the distribution of work between members and pupils and junior tenants. The distribution of such work will be systematically monitored to ensure that any disparities are identified and rectified. Chambers will refer to the Bar Council's guidance on monitoring work distribution.
6. The EDO & DDO will be responsible for overseeing the monitoring of work and earnings and will meet with the senior practice manager on a regular basis to compare and review the work distribution data to ensure that work is distributed in a manner which is fair. For these purposes, regularly is at least once every six months. The EDO/DDO

will report to the Management Board as soon as reasonably practicable after their meeting with the senior practice manager.

7. The EDO/DDO will use the work distribution data to ascertain whether any instructing organisations, solicitors or members exhibit briefing practices which tend to favour a particular group. If any such trend is identified, it will be reported to the Management Board, which will consider whether there is any underlying discriminatory practice and (if so) what steps should be taken to remedy the situation.

#### **D. Ensuring the Fair Distribution of Work**

8. Members and practice managers 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. Therefore, all members and practice managers will be briefed on the importance of fair allocation of work and (where appropriate) be provided with equality and diversity training. It is a principle of fundamental importance that members and the practice managers will seek to ensure that, where possible, the allocation of work in Chambers is dealt with in a fair and equitable manner.
9. The practice managers will also seek to ensure, where possible, that instructions and briefs are not delivered by solicitors at such times as to preclude those with childcare and other dependent care commitments from being eligible for that work (for example, where a brief is not delivered until Friday afternoon for a trial on Monday).
10. Late delivery of briefs may also disadvantage disabled barristers who may require the court to make adjustments for them which cannot be made on the morning of a trial or hearing.
11. Allocation of led work will also be done fairly and monitored to ensure all members have equal access to led work opportunities.
12. The fair allocation of work amongst pupils and members will be monitored in the manner described above. Chambers will have in place procedures for dealing effectively with complaints or concerns about allocation of work.

#### **E. Potentially Discriminatory Requests**

13. [Section 47\(6\) of the Equality Act 2010](#)<sup>i</sup> makes it unlawful for any person in instructing a barrister, to discriminate against them. This includes clients, practice managers 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.

14. Chambers will ensure that all the practice managers are aware of the legal position set out above.
15. Practice managers 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, practice managers will explain that they are unlawful. If possible, they 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 practice manager and the solicitor may help to clarify the reason for the request, which may be based on stereotypical assumptions, and it may be possible to meet the underlying need in a non-discriminatory way.
16. On no account will practice managers comply with any request or requirement to discriminate on unlawful grounds in the choice of barristers. Should the solicitor refuse to modify or withdraw the request and continue to insist on a discriminatory allocation of work, 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.

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

17. Marketing strategies for pupils and members 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 pupils and 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 practice managers.
18. 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 practice managers sending out an email inviting expressions of interest for a particular networking or marketing event.

#### **G. Responding to, and Rectifying, Complaints**

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

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