

ANNEX J Model chambers harassment policy

Statement of Policy

Chambers is committed to providing a working environment in which all individuals including members, pupils, mini-pupils, employees, clients and the public are treated with dignity and respect. Chambers aims to promote a working environment, which is conducive to the professional growth of its members and employees and to the promotion of equality of opportunity.

Chambers will not tolerate any form of harassment and will take all necessary steps to ensure that its members and employees are not subject to harassment. Harassment constitutes professional misconduct and is prohibited by the Bar Council's Code of Conduct. Harassment on the grounds of sex, race, disability, sexual orientation or religion is unlawful under the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment (Religion and Belief) Regulations 2003.

The Scope of the Policy

This policy applies to all members and employees of Chambers, to pupils and to mini-pupils. The policy applies to:

- all premises where chambers' business is conducted;
- all chambers' related activities performed at any other site away from the chambers;
- any social, business or other function where conduct or comments may have an effect on chambers or relationships within Chambers.

Definition of Harassment

Harassment is any form of unwanted conduct, which has the aim, or effect of diminishing a person's dignity or creating a humiliating or offensive environment for that person. The essence of all harassment is that it is unwelcome conduct, which is offensive to the recipient. The test is a subjective one and the fact that one person may be able to ignore or deal comfortably with certain behaviour does not mean that it is acceptable if directed at another.

Chambers prohibits any behaviour which causes offence or distress to another and which is perceived by that person as relating to or arising from his/her race, religion political belief, sex, sexual orientation or disability and which constitutes less favourable treatment on such grounds. Harassment may take a variety of forms and includes behaviour.

- which is unwanted by the recipient and perceived as threatening;
- which causes a hostile or threatening working environment;
- where rejection or submission is used as a basis for decisions concerning the recipient eg, decision relating to award of pupillage, appointment of tenancy, promotion or other opportunities for career advancement.

The following are example of behaviour, which may amount to harassment:

- physical assault, including sexual assault;
- demands for sexual favours in return for career advancement;
- unnecessary physical contact;
- exclusion from social networks and activities;
- isolation;
- bullying;
- compromising suggestions or invitations;
- suggestive remarks or looks;
- display of offensive materials, including on computer screen;
- tasteless jokes or verbal abuse;
- offensive remarks or ridicule;
- dealing inappropriately with complaints of harassment.

Disciplinary action will be taken against any member or employee of chambers found to have harassed a colleague or other person in the conduct of their work.

Communication of the Policy on Harassment

A copy of this policy will be provided to all members, employees, pupils and mini-pupils of the Chambers. If necessary, a briefing will be provided so that all members and employees are aware of behaviour, which is unacceptable within the working environment, and are aware of the

harassment policy, procedures for making complaints against and assistance available.

Resolving Complaints of Harassment

Chambers is committed to providing a supportive environment in which to resolve problems of harassment, and has put in place a number of options of resolving problems. A non-adversarial approach will be adopted.

Informal Resolution Options

1. When an incident of harassment occurs, the recipient should communicate their disapproval and objections immediately to the harasser, if they feel able to do so, and request the harasser to stop.
2. If the harasser does not stop or if the recipient is uncomfortable about addressing the harasser directly, he or she should bring their concerns to the attention of the Chambers Equal Opportunities Officer or the designated adviser or contact (where Chambers has identified such an individual). Chambers will provide advice or support as requested and will undertake any investigation necessary to resolve the matter, speedily and in confidence. Within one week of the receipt of the informal complaint an investigation will be made, if necessary.

Formal Complaints Resolution

1. Where the person subject to harassment does not wish to pursue the informal resolution options or has exhausted such options, they may make a formal complaint to any of the designated advisers or to (named individuals). All such complaints will be promptly investigated.
2. A formal complaint should be made in writing. Within one week of the receipt of the complaint an investigation of the allegation will be made and completed within 14 days, unless there are good reasons for delay.
3. Investigations will be conducted in accordance with standards of natural justice. Where possible, two members of chambers not directly involved in the complaint should be permitted to be accompanied by a colleague or friend at any hearing.

4. If the allegation of harassment is upheld, appropriate remedial actions will be taken.

This may include any of the following;

- formal apology;
- counselling;
- written warning
- change of work assignment
- report to the relevant Inn recommending the removal of pupil supervisor status;
- suspension or discharge of member or employee
- referral to Professional Conduct Committee (PCC)

In addition, to the sanction that may be imposed on a member of an employee by chambers as part of a complaint resolution, members of chambers who engage in harassment may be liable for damages in the event of a civil lawsuit or may face further sanctions imposed by the Bar Council's Professional Conduct and Complaints Committee, or, in a very serious case, criminal sanctions.

Raising A Complaint

A person experiencing harassment is encouraged to raise a complaint at an early stage, preferably through the informal procedure. Raising a complaint at an early stage is more likely to result in a satisfactory resolution. If left unresolved, the harassment may escalate to the point where the situation becomes much more difficult to deal with effectively.

Any member, employee, pupil or mini-pupil in chambers has the right to bring to the attention of an appropriate person any behaviour, which they consider to be contrary to the harassment policy, irrespective of whether they are the recipients of the harassment. A member or employee of chambers who witnesses behaviour, which they consider contravenes the harassment policy, should take immediate action to indicate that such behaviour is unacceptable as failure to do so could be interpreted as condoning such behaviour.

Standard of Proof

It should be noted that the standard of proof applied may differ according to the complaints process involved. The PCCC apply the criminal

standard, beyond reasonable doubt, to complaints alleging professional misconduct by a barrister. In employment tribunals or county courts the civil standard, balance of probabilities, applies.

Confidentiality

Chambers recognise that a recipient of harassment may find it difficult to come forward with a complaint and they understand that recipients and alleged harassers may be particularly concerned about confidentiality and the effect that a complaint may have on career advancement. To protect the interests of the complainant, the person complained against, and any others who may report or be witnesses to incidents of harassment, confidentiality will be maintained throughout any investigatory process to the extent that this is practical and appropriate under the circumstances. However, chambers has a duty to ensure that harassment does not re-occur. All records of complaints, including notes to meetings, interviews, results of investigations and other relevant material will be kept confidential by chambers except where disclosure is required for disciplinary or other remedial processes.

Victimisation

Chambers is committed to ensuring that no one who brings forward a harassment concern in good faith is subject to any form of reprisal. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be viewed as a disciplinary matter. The raising of such a complaint will not have any adverse consequences for the complainant, particularly in relation to tenancy and promotion decisions.

Pupil Supervisors

Pupillage is a period of professional training and chambers regard it as inappropriate for a sexual relationship to develop between a pupil supervisor, any other member or employee of chambers and a pupil. No member of chambers may participate in decisions concerning a pupil where they are or have been in a relationship with that pupil.

Further Avenues of Redress for an Individual Experiencing Harassment

In addition to the chambers' procedures there are a number of other avenues of redress. These include:

- If a complaint is not resolved within Chambers a further avenue of appeal to an external independent individual may be considered. The individual should have experience in equal opportunities
- raise a complaint with the relevant Inns Students' Officer about a sponsor or pupil supervisor. The Inns' complaints process will determine the outcome of such complaints;
- complaint to the Bar Council's Professional Conduct and Complaints Committee where the alleged harasser is a barrister;
- take action in the county court or employment tribunal alleging harassment as a form of unlawful direct discrimination;
- report this matter to the police where an act of harassment is a criminal offence e.g. assault or intentional harassment.
- through the Bar Council's Equality and Diversity Advisers seek the assistance of the Bar Council's Mediation Panel members. Their role is to advise the complainant and, with his or her permission, seek to mediate between the complainant and the alleged harasser. The Panel can be approached in confidence and will aim to achieve an end to the conduct complained of without necessarily finding fault or blame and without the imposition of sanctions.

The Bar Council's Equality and Diversity Advisers are available at the Bar Council to offer advice **in confidence** to any recipient of harassment or to any member of chambers responding to a complaint of harassment. The confidential helpline number (a direct dial number) is 0207 611 1310