

## **Fair Access to and Allocation of Unassigned Work Policy**

### **Regulatory Requirements**

1. Chambers is committed to conducting its affairs in a manner which does not unlawfully discriminate<sup>1</sup> and is fair and equitable for all members of Chambers and pupils. This includes, but is not limited to, the fair distribution of work amongst pupils and members of Chambers.

### **Practice Managers**

2. Chambers shall ensure that the practice managers are fully briefed on the need to distribute work in a fair and non-discriminatory manner, and the practice managers involved in the distribution and monitoring of work allocation shall be provided with equality and diversity training.
3. Practice managers will select which barristers to put forward for an opportunity by reference to non-discriminatory criteria, which should be objective and should have regard, inter alia, to whether their availability and/or charging rate and/or skills and/or aptitudes and/or experience are appropriate to the opportunity and/or whether the opportunity represents a practice development opportunity.
4. In any particular case, the practice managers may reasonably consider that it would not be productive to put forward all those members of chambers available and appropriate for a piece of unassigned work<sup>2</sup>. In accordance with para 8 below, the practice managers will record who is put forward and the reasons for that selection, and they will aim to achieve overall fairness in allocation of unassigned work and equal access to the range of work undertaken by Chambers.

### **Members of Chambers**

5. Each members of Chambers must ensure that he/she is fully briefed on the need to ensure that work is distributed in a fair and non-discriminatory manner. Chambers shall ensure that members of Chambers are provided with periodic opportunities for equality and diversity training.
6. In recommending or selecting other members of Chambers for work, a member of Chambers must act by reference to non-discriminatory criteria which should be objective and should have regard, inter alia, to whether the availability and/or charging rate and/or skills and/or aptitudes and/or experience of the members recommended or selected are appropriate to the opportunity.
7. Members of Chambers are encouraged to keep wide the circle of other members of Chambers with whom they work and, where appropriate, to focus on working with members of Chambers they have not yet had the opportunity to work with.

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<sup>1</sup> i.e. Referred to below as “non-discriminatory”.

<sup>2</sup> Defined in para 8.

## Monitoring of unassigned work

8. The distribution of unassigned work to tenants and working pupils will be systematically monitored as follows:
  - a. Unassigned work comprises all work which a solicitor has not already allocated to a named individual (i.e. all work that comes into chambers by any means, or is already within Chambers, that needs allocation to a barrister). Unassigned work includes work where a recommendation or selection is made by a member of Chambers (either a Junior recommending or selecting a Silk or another Junior, or a Silk recommending or selecting a Junior or another Silk) and whether made to practice managers or directly to solicitors.
  - b. In respect of unassigned work, the practice managers will record the following: (a) the nature of the work; (b) the instructing solicitors; (c) the member(s) of Chambers put forward for the work; (d) the main reason for the barristers recommended (e.g. availability, experience, or practice development opportunity); (e) who was responsible for allocating/making the relevant recommendations for the unassigned work (whether practice manager or member of Chambers); and (f) the outcome of the recommendations.
  - c. The Head of the Equality and Diversity Committee, the Chambers' Director and the Senior Practice Managers will periodically (and at least every six months) review the data collected by this system, together with data on earnings, on the total number of pieces of unassigned work for which each member of Chambers was put forward in each quarter and on conversion rates, to assess whether or not any discrimination or unfair allocation may be occurring.
  - d. In respect of tenants, monitoring will take place at least every 6 months and by reference to quarterly data. In respect of working pupils it will take place prior to the tenancy recommendation decision.
  - e. Before the monitoring is undertaken for tenants, the Head of the Equality and Diversity Committee shall email members of Chambers to notify them that the monitoring is about to take place and invite any member of Chambers who wishes to do so to let him/her know if that member of Chambers has concerns about the allocation of unassigned work.
  - f. In the event of material anomalies occurring without good reason, the Head of the Equality and Diversity Committee will report to the Head of the Pupillage Committee (in respect of working pupils) or to the Management Board and/or Head of Chambers (in respect of tenants), who shall take whatever steps they consider appropriate to address the situation.
  - g. If any working pupil has concerns over the way work has been distributed, he or she should raise the matter with his or her pupil supervisor or with the Head of the Pupillage Committee. In the event the matter is not satisfactorily resolved, Chambers' complaints procedure is available.
9. It is the responsibility of every member of Chambers who makes a recommendation or a selection decision for a piece of unassigned work which does not involve communicating with the practice managers to notify the practice managers, so that the information in para 3(b) above may then be data captured in respect of that piece of work.

10. Chambers' practice managers must not under any circumstances accede to unlawful discriminatory instructions from solicitors or other professional clients. Any solicitor/professional client who insists on a directly discriminatory allocation of work should be reported to his or her professional disciplinary body, and the work should be refused. For the avoidance of doubt, practice managers are permitted to respond to a request from a solicitor or other professional client for recommendations which are mixed in gender terms.

### **Complaints**

11. In the event of any complaint or concern expressed by any member of chambers as to the distribution of work (other than a working pupil, as to which see above), the Head of Chambers (or a designated senior member of chambers) shall, for a set period of time to be determined by the Head of Chambers, conduct a detailed monitoring of such distribution, and take such steps as the Head of Chambers considers appropriate to address the complaint or concern. In the event the matter is not satisfactorily resolved, Chambers' complaints procedure is available.

### **Review**

12. This Policy will be reviewed by the Management Board at least once every two years.

**Approved by the MB September 2020**