

## **FLEXIBLE WORKING POLICY**

### **Introduction**

1. This Policy has been produced in accordance with the Bar Standards Board Handbook rC.110.3 (I) which requires that

*“...chambers has a flexible working policy which covers the right of a member of chambers or employee to take a career break, to work part-time, to work flexible hours or to work from home so as to enable them to manage their family responsibilities or disability without giving up work.”*
2. This Policy has been written to describe how Chambers will deal with members who wish to work flexibly for any of the above reasons, or for reasons of long-term illness. A separate policy regarding flexible working applies to employees.
3. All Members of Chambers as self-employed individuals are able to set their own working patterns, subject firstly to their obligations under Chambers’ Constitution to pay their Chambers’ rent and expenses, unless specific provision is made in the Constitution or any applicable policy for any reduction or modification of those expenses; and secondly, regardless of the ability to work flexibly, all members of Chambers shall devote such time to their practice as shall be reasonably necessary to ensure that they provide proper professional services to lay and professional clients of their own or of Chambers.
4. Chambers endeavours to work within the relevant statutory, regulatory and professional frameworks in relation to equality and diversity, and recognises that those with certain protected characteristics e.g. those with disabilities; those with caring responsibilities; and those in older age groups, are afforded protection from various types of discrimination in relation to flexible working and reasonable adjustments under equalities legislation.
5. The protections provided by this Policy are in addition to the Head of Chambers’ discretion in relation to concessions on Chambers’ rent and expenses on the grounds of hardship as set out in paragraphs 62 and 63 of the Constitution.
6. This Policy is made available and drawn to the attention of all members of Chambers and staff, all of whom are required to:
  - 6.1. Read and understand this Policy; and
  - 6.2. Understand their role in relation to this Policy.
7. This Policy will be reviewed by Chambers’ Equality and Diversity Committee (E&DC) at least every two years, which will report to Chambers’ Management Board on its effectiveness and make recommendations as required.

### **Areas Covered by this Policy**

8. This Policy will deal with:
  - 8.1. General Guidelines on flexible working;
  - 8.2. Protections for flexible workers;
  - 8.3. Complaints, other information and review.

## **General Guidelines on Flexible Working**

9. Chambers recognises that, from time to time, members may decide they want to work more flexibly than is customary in full-time self-employed practice at the Bar, so as to enable them to manage childcare, family or other responsibilities, or to manage the effects of any ill-health or disability that they or a family member may have, alongside the continuation of their practice. Generally, such arrangements are a matter of the member's individual choice in accordance with 1 above.
10. In order to ensure that members working flexibly are not being discriminated against on any of the protected grounds under the Equality Act 2010 and for reasons of good practice management, they are encouraged to discuss with their Practice Management Team Leader their wish to work flexibly and to discuss the ongoing arrangements in their practice reviews (see 14.1 below). They are also encouraged to declare that they are working flexibly when information is being gathered for the purposes of Chambers' collection of diversity information for the purposes of the Bar Standards Board's Handbook E&D monitoring provisions.
11. Chambers recognises that it is in its long-term interests to retain all members, including those who work flexibly and that accommodating and actively managing flexible working arrangements is likely to aid long-term retention of such members in Chambers and in practice at the Bar.
12. Chambers will arrange appropriate, regular training for staff in relation to flexible working and this Policy.
13. Chambers will ensure that a member working flexibly for whatever reason is:
  - 13.1. Invited to training events, social occasions, marketing events and Chambers' Meetings;
  - 13.2. Informed about and consulted on any significant issues affecting their practice and the practice of Chambers.
14. The following are guidelines to be followed by members and Chambers (through the practice managers) unless the circumstances of any particular case dictate a variation (in which case the spirit of these guidelines shall be followed as closely as is appropriate):
  - 14.1. When the member decides they wish to work flexibly, they should notify the Chambers Director and meet with their Practice Management Team Leader (if possible, prior to starting flexible working) to discuss the following:
    - 14.1.1. the reason that they wish to work flexibly (if appropriate);
    - 14.1.2. the hours and days that they wish to work, and where the member intends to be based;
    - 14.1.3. any geographical limitations the member would like to be placed on work allocated to them;
    - 14.1.4. how their proposed days and hours of work are likely to affect the other members;
    - 14.1.5. how the Member wishes their flexible working to be referred to in conversations with clients and other members of Chambers;
    - 14.1.6. what arrangements the member is going to make to ensure good communications are maintained with the practice managers and with solicitors;
    - 14.1.7. logistical issues (pigeon-hole contents; IT; couriers; payment of cheques, etc).
  - 14.2. A review meeting will take place between four and six weeks after the start of the flexible working at which the member and Practice Management Team Leader will consider the points at 14.1 above to see if the arrangements made are working in practice, and make adjustments as necessary.
  - 14.3. In the member's subsequent Practice Reviews, the Practice Management Team Leader will consider and discuss with the member, in addition to the other elements of the Practice Review:

- 14.3.1. Regarding the points at 14.1 above, how well the arrangements are working in practice, and if they need amendment;
  - 14.3.2. the information on the monitoring of allocation of unassigned work in relation to the member.
15. If the period of flexible working involves a period where the member ceases to undertake any work at all for a period (referred to below as a career-break), Chambers, through the member's practice management team, will ensure that the member returning to practice is assisted in the re-establishment of their practice. Chambers E&D Committee has developed Guidelines to be followed upon the return to work of a member returning from Parental Leave. These Guidelines should also be had regard to, *mutatis mutandis*, in the circumstances of this paragraph.

### **Protections for Flexible Workers**

16. The following protections are to be available to members who wish to work flexibly for any of the protected reasons within rC110 of the BSB Handbook.
17. In respect of a career-break for any of the protected reasons within rC110:
- 17.1. Up to 6 months' rent holiday (subject to reduction if the career-break does not last that long).
  - 17.2. Other protections to be a matter for the discretion of the Head of Chambers (HOC) acting with advice from Chambers' E&D Officers from time to time. Depending upon the circumstances, such protection might, but need not, include (i) a moratorium on rent point increases during career-break, (ii) in the event of a career-break for longer than 6 months, a further period to be agreed of rent holiday, (iii) a credit of up to £12k against expenses on return and (iv) the right to room share (assuming suitable room/partner available) or down-size (subject to availability) if the member so wishes.
18. In respect of part-time or other flexible working within rC110 member who wishes to work flexibly or take a career break for any of the protected reasons within rC110 ("a rC110 Member") shall be entitled to:
- 18.1. A right to room-share (assuming suitable room/partner available) or to down-size (subject to availability).
  - 18.2. Adjustment to the seniority point calculation as follows:
    - 18.2.1. The rC110 Member pays only 37% of the seniority points that would otherwise have applied to someone in that band;
    - 18.2.2. The rate at which seniority points increase is halved during the period of rC110 flexible working; and
    - 18.2.3. After the end of the period of flexible working due to a protected reason within rC110, seniority points shall accrue at the normal rate but from the reduced level of points reached at that stage.
  - 18.3. Any rC110 Member whose receipts in any Chambers' Financial Year are less than £160,000 shall not pay more than 20% of his/her receipts in rent and expenses ("the 20% Reverse Cap"). The 20% Reverse Cap shall operate as follows:
    - 18.3.1. The 20% Reverse Cap calculation shall be performed at the end of Quarter 2 and Quarter 4 of the relevant Chambers' Financial Year and by reference to receipts, rent and expenses in the preceding 6 months in the case of Quarter 2 (in which case the receipts trigger of £160,000 is pro-rated to £80,000) and in the preceding 12 months in the case of Quarter 4.
    - 18.3.2. If the cap is triggered, a credit will be applied to the relevant rC110 Member's bill for Quarter 2 and/or Quarter 4, as the case may be.

- 18.3.3. If the cap is triggered at Quarter 2 but not at Quarter 4 (because over the course of the year as a whole receipts have exceeded £160,000), any credit applied at Quarter 2 shall be re-claimed in the Quarter 4 bill.
- 18.3.4. A rC110 Member is entitled to defer any credit to which he or she might otherwise be entitled at the end of Quarter 2 at his/her option, without prejudice to his/her rights by reference to the receipts, rent and expenses for the whole year at the end of Quarter 4.
- 18.3.5. Where any rC110 Member had earnings below the level of £160,000 in any one Financial Year, rent and expenses shall automatically be capped at 20% in the following year until such time as the relevant member's earnings exceed the relevant trigger (£80,000 at Q2 and £160,000 at Q4). Any credit applied during any of Quarters 1-3 shall be re-claimed in the Quarter 4 bill if, by that stage, earnings for the year have exceeded £160,000.
- 18.3.6. The 20% Reverse Cap shall not be available to a rC110 Member in sole occupancy of a large-sized room.
- 18.4. Any other protection shall be a matter for the discretion of the Head of Chambers acting with advice from Chambers' E&D Officers from time to time.
- 19. To qualify for the protections in paragraphs 17 and 18 above, the relevant member shall make a declaration to the Head of the EDC, EDO or Chambers Director that s/he wishes to work flexibly or take a career break for any of the protected reasons within rC110 and wishes to benefit from the protections at paragraphs 17 and 18 above, at least 8 weeks prior to the period in which the member wishes to benefit from these protections, and establish that the proposed flexible working is likely materially to impact their earnings. In the case of primary child-carers, and of other rC110 flexible workers proposing to work part-time, Chambers considers that material impact on earnings should be irrefutably presumed. A member's status as a rC110 Member shall be reviewed annually and shall be determined by the Head of the EDC. If the Head of the EDC determines that the member is not a rC110 Member or has ceased to be a rC110 Member, any such protections under paragraphs 17 and 18 shall cease. In the event the member disputes the determination, the matter will be dealt with under paragraphs 20-21.

### **Complaints, Other Information and Review**

- 20. Any member who wishes to make a complaint about the application of this Policy or any other matter in respect of flexible working should in the first instance contact one of the Chambers' Equality and Diversity Officers who will endeavour to resolve the complaint informally. If such attempt at a resolution fails, a grievance can be pursued under Chambers' Internal Complaints Procedure.
- 21. Members who have a disability should also have reference to Chambers' Reasonable Adjustments Policy if necessary, and the government's Access to Work scheme, which provides equipment and assistance to disabled individuals who may need additional equipment to be supplied to remove a disadvantage they suffer in the workplace.
- 22. This Policy will be reviewed two years from the date of its implementation and every two years thereafter. The level of the financial benefits in paragraphs 17-18 shall be reviewed annually.

### **Pupils**

- 23. Chambers is committed to ensuring that appropriate support is provided to pupils who notify chambers of a need for assistance, accommodation or reasonable adjustments to their pupillage to assist them in managing family responsibilities, disability or ill health without giving up their pupillage (or for analogous reasons). It is chambers policy that it will seek to meet such identified needs so far as is practicable and consistent with the requirements of the Bar Training Regulations and any other applicable regulations or guidance in force from time to time.

24. In particular:

- (1) all pupil supervisors and the pupillage committee will be ready to discuss, and where practicable accommodate, any concerns, needs or requests in relation to a pupil's family responsibilities, disability or similar. For example, in relation to matters such as the structure of the pupil's working hours, advance notice of anticipated changes to regular working hours (e.g. where a pupil is expected to attend a trial out of London or an evening conference), etc.
- (2) where possible, there will in every year be a male and female pupil mentor either or both of whom can act as an informal point of contact for a pupil to raise and discuss any concerns or needs arising in relation to family responsibilities, disability or similar.

25. Pupils should be assured that discussions or requests for accommodation or adjustments pursuant to the above provisions will have no impact on their prospects of being recruited as a tenant.

**Approved by the MB September 2020**