

D1.2 Equality and diversity

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

- .1 there is in force a written statement of policy on equality and diversity; and
- .2 there is in force a written plan implementing that policy;
- .3 the following requirements are complied with:

Equality and Diversity Officer

.a *chambers or BSB authorised body* has at least one *Equality and Diversity Officer*;

Training

.c except in unforeseen and exceptional circumstances, the person with lead responsibility for any selection panel and every member of all selection panels must have received recent and appropriate training in fair recruitment and selection processes.

Fair and objective criteria

.d recruitment and selection processes use objective and fair criteria;

Equality monitoring

.e your *chambers or BSB authorised body*:

.i conducts a *regular review* of its policy on equality and diversity and of its implementation in order to ensure that it complies with the requirements of this Rule C110; and

.ii takes any appropriate *remedial action* identified in the light of that review;

.f subject to Rule C110.3.h *chambers or BSB authorised body* regularly reviews:

.i the number and percentages of its *workforce* from different groups; and

.ii applications to become a member of its *workforce*; and

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

.g the reviews referred to in Rule C110.3.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 C110.3.f.i and Rule C110.3.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*;

Harassment

.j *chambers* or *BSB authorised body* has a written anti-*harassment* policy which, as a minimum:

.i states that *harassment* will not be tolerated or condoned and that *managers*, *employees*, members of *chambers*, *pupils* and others temporarily in your *chambers* or *BSB authorised body* such as mini-pupils have a right to complain if it occurs;

.ii sets out how the policy will be communicated;

.iii sets out the procedure for dealing with *complaints of harassment*;

Parental leave

.k *chambers* has a *parental leave* policy which, in the case of a *chambers*, must cover as a minimum:

.i the right of a member of chambers to take parental leave;

.ii the right of a member of chambers to return to chambers after a specified period, or number of separate periods, of parental leave, provided the total leave taken does not exceed a specified maximum duration (which must be at least one year);

.iii a provision that enables parental leave to be taken flexibly and allows the member of chambers to maintain their practice while on parental leave, including the ability to carry out fee earning work while on parental leave without giving up other parental leave rights;

.iv the extent to which a member of chambers is or is not required to contribute to chambers' rent and expenses during parental leave;

.v the method of calculation of any waiver, reduction or reimbursement of chambers' rent and expenses during parental leave;

.vi where any element of rent is paid on a flat rate basis, the chambers' policy must as a minimum provide that chambers will offer members taking a period of parental leave a minimum of 6 months free of chambers' rent;

.vii the procedure for dealing with grievances under the policy;

.viii chambers' commitment to regularly review the effectiveness of the policy;

Flexible working

.l *chambers* or *BSB authorised body* has a flexible working policy which covers the right of a member of *chambers*, *manager* or *employee* (as the case may be) to take a career break, to work part-time, to work flexible hours, or to work from home, so as to enable him to manage their *family responsibilities* or disability without giving up work;

Reasonable adjustments policy

.m *chambers* or *BSB authorised body* has a reasonable adjustments policy aimed at supporting disabled *clients*, its *workforce* and others including temporary visitors;

Appointment of Diversity Data Officer

.n *chambers* or *BSB authorised body* has a Diversity Data Officer;

.o *chambers* or *BSB authorised body* must provide the name and contact details of the Diversity Data Officer to the *Bar Standards Board* and must notify the *Bar Standards Board* of any change to the identity of the Diversity Data Officer, as soon as reasonably practicable;

Responsibilities of Diversity Data Officer

.p The Diversity Data Officer shall comply with the requirements in relation to the collection, processing and publication of *diversity data* set out in the paragraphs rC110.3.q to .t below;

Collection and publication of diversity data

.q The Diversity Data Officer shall invite members of the *workforce* to provide *diversity data* in respect of themselves to the Diversity Data Officer using the model questionnaire in Section 7 of the BSB's Supporting Information on the BSB Handbook Equality Rules (https://www.barstandardsboard.org.uk/media/1549918/bsb_equality_rules_supporting_information_2014.pdf);

.r The Diversity Data Officer shall ensure that such data is anonymised and that an accurate and updated summary of it is published on *chambers'* or *BSB authorised body's* website every three years. If *chambers* or *the BSB authorised body* does not have a website, the Diversity Data Officer shall make such data available to the public on request;

.s The published summary of anonymised data shall:

.i exclude *diversity data* relating to the characteristics of sexual orientation and religion or belief, unless there is consent from each of the members of the *workforce*; and

.ii exclude diversity data in relation to any characteristic where there is a real risk that individuals could be identified, unless all affected individuals consent; and

.iii subject to the foregoing, include anonymised data in relation to each characteristic, categorised by reference to the job title and seniority of the *workforce*.

.t The Diversity Data Officer shall:

.i ensure that *chambers* or *BSB authorised body* has in place a written policy statement on the collection, publication, retention and destruction of *diversity data* which shall include an explanation that the provision of *diversity data* is voluntary;

.ii notify the *workforce* of the contents of the written policy statement; and

.iii ask for explicit consent from the *workforce* to the provision and processing of their *diversity data* in accordance with the written policy statement and these rules, in advance of collecting their *diversity data*.

rC111 For the purposes of Rule C110 above, the steps which it is reasonable for you to take will depend on all the circumstances, which include, but are not limited to:

.1 the arrangements in place in your *chambers* or *BSB authorised body* for the management of *chambers* or *the BSB authorised body*; and

.2 any role which you play in those arrangements.

rC112 For the purposes Rule C110 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 Rule C110 and Rule C111

gC140 Rule C110 places a personal obligation on all *self-employed barristers*, however they practise, and on the *managers* of BSB authorised bodies, 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 C110, 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 C110, 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 authorised body*, you are expected to take reasonable steps to ensure that there are policies and that they are enforced.

gC142 For the purpose of Rule C110 training means any course of study covering all the following areas:

- a) Fair and effective selection & avoiding unconscious bias
- b) Attraction and advertising
- c) Application processes
- d) Shortlisting skills
- e) Interviewing skills
- f) Assessment and making a selection decision
- g) Monitoring and evaluation

gC143 Training may be undertaken in any of the following ways:

- a) Classroom sessions
- b) Online sessions
- c) Private study of relevant materials such as the Bar Council's Fair Recruitment Guide
- d) Completion of CPD covering fair recruitment and selection processes

gC144 The purpose of Rule C110.3.d is to ensure that *applicants* with relevant characteristics are not refused *employment* because of such characteristics. In order to ensure compliance with this rule, therefore, it is anticipated that the *Equality and Diversity Officer* will compile and retain data about the relevant characteristics of all *applicants* for the purposes of reviewing the data in order to see whether there are any apparent disparities in recruitment.

gC145 For the purpose of Rule C110 "regular review", means as often as is necessary in order to ensure effective monitoring and review takes place. In respect of data on pupils it is likely to be considered reasonable that "regularly" should mean annually. In respect of managers of a *BSB authorised body* or tenants, it is likely to be considered reasonable that "regularly" should mean every three years unless the numbers change to such a degree as to make more frequent monitoring appropriate.

gC146 For the purposes of Rule C110, "remedial action" means any action aimed at removing or reducing the disadvantage experienced by particular relevant groups. Remedial action cannot, however, include positive discrimination in favour of members of relevant groups.

gC147 Rule C110.3.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.

- gC148** a) Rule rC110.3.k applies to all members of chambers, irrespective of whether their partner or spouse takes parental leave.
b) A flexible policy might include for example: keeping in touch (KIT) days; returns to practice in between periods of parental leave; or allowing a carer to practise part time.
c) Any periods of leave/return should be arranged between chambers and members taking parental leave in a way that is mutually convenient.

gC149 For the purposes of Rule C110 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

gC150 These rules are supplemented by the BSB's Supporting Information on the BSB Handbook Equality Rules ("*the Supporting Information*"): https://www.barstandardsboard.org.uk/media/1549918/bsb_equality_rules_supporting_information_2014.pdf. These describe the legal and regulatory requirements relating to equality and diversity and provide guidance on how they should be applied in *chambers*. If you are a *self-employed barrister*, you should seek to comply with the *Supporting Information* as well as with the rules as set out above.

gC151 *The Supporting Information* is also relevant to all *pupil supervisors* and *authorised training organisations*.

These will be expected to show how they comply with the *Supporting Information* as a condition of authorisation.

gC152 Although *the Supporting Information* does not apply directly to *BSB authorised persons* working as *employed barristers* (non-authorised bodies) or *employed barristers (authorised non-BSB body)*, they provide helpful guidance which you are encouraged to take into account in your practice.