

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Proposed New Equality and Diversity Conduct and Practising Rules

Consultation paper

November 2010

Consultation Paper on the Proposed New Equality and Diversity Conduct and Practising Rules

1. Background

- 1.1 The Equality and Diversity Code for the Bar was developed to assist barristers and their employees to apply good equal opportunities practice in the development and running of chambers. The Code was first drafted in 1995 and was updated in 2004 to take into account increasing awareness of equality issues and to reflect developing law, particularly disability and age equality legislation. The Code was originally drafted and owned by the Bar Council until 2009 when ownership and the task of revising the Code was passed to the regulator, the Bar Standards Board.
- 1.2 The BSB, in consultation with the Bar Council Equality and Diversity Committee, is proposing that some aspects of the current good practice guidance should become mandatory. These new regulatory provisions will be part of the Code of Conduct, comprising the conduct and Practising Rules, and any breach of the Equality and Diversity provisions would therefore be a breach of the Code of Conduct.
- 1.3 This consultation paper and new Practising Rules are concerned with “in-house” matters but the Conduct rules also include the non-discrimination core duty and specific duties on non-discrimination in taking on work. The Conduct rules cover a barrister’s duties to clients and include a rule requiring clients to be treated with courtesy and consideration, which contributes to ensuring that the Bar complies with Equality and Diversity considerations in its outward facing role.

2. Why the change?

- 2.1 The call for change to existing arrangements initially came from the Bar Council Equality and Diversity Committee which recognised that the current Equality and Diversity Code was increasingly out of date and needed to be updated to reflect recent equality legislation.
- 2.2 The Legal Services Act 2007 imposes regulatory objectives on the BSB to encourage an independent, strong, diverse and effective legal profession and to improve access to justice. In addition, the 2010 Equality Act and the equalities legislation that preceded it, require the BSB to eliminate discrimination and promote equality in relation to the “protected characteristics” of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.
- 2.3 A raft of equality legislation has been passed since the 2004 Equality and Diversity Code was published, culminating in the Equality Act 2010 which came into force this month replacing previous equalities legislation. The Equality Act strengthens the law in relation to service provision and s.47 of the Act specifically deals with the obligations of barristers, focusing on the duty to make reasonable adjustments and the prohibition on discrimination against pupils or tenants. Therefore the BSB needs to revise the current Equality and Diversity Code in line with these changes and provide updated guidance to chambers.
- 2.4 The 2010 Pupillage Review indicates some of the achievements that the Bar has made in diversity. The Bar “*shows higher ethnic minority participation than the economically active population with higher qualifications*”. “*The Bar shows higher female participation particularly among new entrants, than the professional employment sector at large*”¹ At the same time, while progress on diversity at the Bar has undoubtedly been achieved, further work remains. In the last few years the proportion of female pupils has declined from 50% in 2006/07 to

¹ Review of Pupillage – Report of the Working Group (BSB 2010)

41% in 2008/09. A comprehensive survey of the Bar² found that white men are substantially over-represented in Silk, with 18% of white men at the self-employed bar in Silk compared with 9% of Black and Minority Ethnic (BME) men, 4% of white women and just 2% of BME women. Further, BME men especially (10%), but also BME women (5%), are much more likely to be sole practitioners than white men (3%) and women (2%). Women are also 2 to 3 times more likely than men to have probationary, squatter or pupil status than men.

- 2.5 Women comprise 34% of the Bar and under-representation is a particular challenge in self-employed practice, especially at senior level. Women barristers in the self-employed Bar are disproportionately more likely than men to leave the Bar or change their practice status. About half the respondents in exit surveys are women although women make up only a third of practising barristers. Nearly four in ten women leaving the Bar or changing their practice status had been influenced by the desire to spend more time with their families, and three in ten by the inflexibility of their working arrangements. Women barristers are also disproportionately represented in family and criminal practice where earnings are relatively low³.
- 2.6 The aim of these Code changes is to ensure that no barrister is prevented from achieving his or her potential at the Bar by unfair recruitment practices or unnecessary barriers to progress.
- 2.7 The 2004 Equality and Diversity Code is not mandatory, containing mostly guidance on good equalities practice in chambers. Chambers are required by the Code of Conduct for the Bar to appoint at least one Equal Opportunities Officer, and to have a written equal opportunities policy which sets out the policy adopted by the chambers in relation to each of the action areas in the Equality and Diversity Code. These areas cover good practice on recruitment, fair access to work, parental leave, flexible working, harassment and complaints and grievances. These are all factors which are relevant to ensuring that

² Analysis of Demographic Data from 2007 (Bar Council 2007)

³ Survey of Barristers Changing Practice Status 2001-8 (Bar Council December 2009)

recruitment and progression depend on merit and to easing the problems of trying to combine a career at the self-employed Bar with family and caring responsibilities.

- 2.8 The BSB's 2009 Chambers Monitoring Pilot Study revealed significant areas of non-compliance with the current equality provisions of the Code of Conduct outlined at 2.7 above. It was clear that the role of the Equal Opportunities Officer had not been defined or developed in many chambers, that equality policies were inadequate, data on chambers membership was not being consistently gathered and equality training not taken up by staff or members of chambers to a significant extent.
- 2.9 In the light of the evidence that the reliance on non-mandatory guidance in the present Equality and Diversity Code has not been effective and of continuing concerns about under-representation of ethnic minorities and women in some areas, the BSB has concluded that its regulatory regime needs to be strengthened in order to meet the BSB's regulatory and public duties regarding diversity in the profession. It is therefore proposed that the Code of Conduct should include additional mandatory equality provisions covering areas such as parental leave, recruitment and monitoring. Most of the new requirements reflect the current guidance on best practice but they also take account of developments elsewhere. It is also proposed that the good practice guidance contained in the current Equality and Diversity Code be brought up to date as support for the implementation of the new rules.

3. What are the new rules?

Proposed new Conduct Rules - Core requirement CD7

- 3.1 The proposed new Conduct Rules, on which the BSB consulted last year, consist of Core Duties and more detailed rules which reinforce and amplify the Core Duties. Core Duty 8 is “*You must not discriminate improperly in relation to any person*”.
- 3.2 In the previous consultation on proposed changes to the Code of Conduct, the BSB suggested that there should be a positive duty to take reasonable steps to prevent discrimination by others in a barrister’s professional dealings. The large majority of the responses to the consultation were opposed to such requirements as it would impose an obligation on barristers which would be hard, perhaps impossible, for them to fulfill. The BSB has accepted this conclusion, but has determined that there nevertheless be an obligation on all practising barristers to take all reasonable steps to ensure that there is an equality and diversity policy, and an action plan for implementing it, in place for “their business”, defined below.
- 3.3 The proposed new Conduct Rules now read:

“5.1R: You must not, in your professional practice, discriminate improperly against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief.

5.2R: You must take all reasonable steps to ensure that in relation to your business:

- (1) there is in force a written statement of policy on equality and diversity*
- (2) there is in force a written plan implementing the policy referred to in 5.2R (1).*

5.3R: In this section “business” includes your place of work, any business structure through which you may offer your services (including any procurement vehicle which

does not itself supply legal services but arrange for barristers to do so) and any recognised body of which you are an employee or manager.

5.4G: Rule 5.2R places a personal obligation on all barristers to take reasonable steps to ensure that appropriate policies are in place. What steps are reasonable will depend, among other things, on your position in the organisation you work in.

For example if you are a Head of Chambers, it is likely to be reasonable for you to ensure that policies required by 5.2R are in place. Self-employed barristers must also comply with the specific requirements in the Practising Rules.

5.5G The equality and diversity good practice guidelines describe the legal and regulatory requirements relating to equality and diversity and provide guidance on how they could be applied in chambers. They are also relevant to all pupil supervisors and Authorised Training Organisations which will be expected to show how they comply with the guidelines as a condition of authorisation. Although the equality and diversity guidelines are not directly applicable to other practising barristers, they provide helpful guidance which they are encouraged to take into account in their professional practice”.

- 3.4 These rules would replace the current Code of Conduct equality provisions at 305.1/2 & 404.2(d) respectively. They would apply to all practising barristers and would extend the obligation to take all reasonable steps to ensure that there is an equality and diversity policy for their business, and an action plan for implementing it, to those practising as employed barristers or as managers or employees of recognised bodies regulated by other Approved Regulators. These requirements would also apply to ProcureCos and Authorised Training Organisations. In chambers, the rules would introduce a personal obligation on individual barristers rather than, as at present, only Heads of Chambers and those responsible for the administration of chambers. This recognises that promoting equality and diversity is an objective to which all members of chambers should make a contribution. The obligation is not an absolute one: the requirement is “to take all reasonable steps”. What that involves will depend on the circumstances. The Head of Chambers will normally be expected to be

able to ensure there is an equality policy and action plan at their place of business. A junior tenant or a junior employee may only be able to satisfy themselves that there is a policy in place and, if not, to raise the issue with the appropriate people and to do whatever they can to adopt an appropriate policy in relation to the aspects of the work for which they are personally responsible.

Proposed new Practising Rules

3.5 The Conduct Rules will be supplemented by Practising Rules which will be issued for consultation shortly. As explained above, these rules will make mandatory some of the existing guidance on equality and diversity. As with the Conduct Rules set out above, the proposed Practising Rules place a personal obligation on self-employed barristers to take all reasonable steps to ensure that their chambers comply with the rules. What steps are reasonable will depend, among other things, on the individual's position in chambers. In implementing the rules, the Code will require self-employed barristers to have regard to the Equality and Diversity Good Practice Guidelines. Unlike the Conduct Rules, these Practising Rules apply only to self-employed barristers. Employed barristers and managers and employees of recognised bodies work for organisations which are subject to the general law and, in the case of the latter, also to the specific requirements of their Approved Regulator. There is therefore no need to apply specific Practising Rules to them.

3.6 *You must take all reasonable steps to ensure that your chambers complies with the following requirements.*

3.7 The rules are set out in italics below followed by the rationale for each one.

Appointment of an Equality and Diversity Officer

3.8 *Your chambers must have at least one Equality and Diversity Officer.*

3.9 This is an existing requirement of the current Code of Conduct at 404.2(d)(i).

Recruitment in Chambers

- 3.10 *The member with lead responsibility for any committee or panel responsible for the selection of members of chambers, pupils, clerks or mini-pupils and at least one member of the selection panel, who may be the same person, must have received recent and appropriate training in fair recruitment and selection processes, except in unforeseen and exceptional circumstances. (This requirement applies from 1 January 2013).*
- 3.11 *Your chambers recruitment and selection processes must use objective and fair criteria.*
- 3.12 The Neuberger working party report “Entry to the Bar “highlighted concerns that pupillage and selection procedures may discriminate against applicants from less privileged or minority ethnic backgrounds as well as older or disabled applicants. It recommended that: “*All barristers involved in selecting assessed mini-pupils, pupils and tenants should be required to be trained in non-discriminatory selection procedures*”.
- 3.13 Fair recruitment and selection processes are essential to ensuring that chambers recruits the best people and work in this area is designed to assist chambers in achieving this aim.
- 3.14 The 2010 pupillage review recommended that, in the short-term, a selection committee must contain at least one member who has received formal equality and diversity training from the Bar Council. In the short term these rules are considered a proportionate means of ensuring that selection procedures are fair. The draft rules require that this member is the lead member of the selection committee or panel.
- 3.15 Neuberger’s recommendation that all barristers involved in selection be trained will be proposed for consideration by the CPD Review. A requirement that by 1 January 2014 every member of all selection panels involved in the recruitment of tenants, pupils, clerks and mini-pupils must be trained in fair recruitment

processes, is considered in the consultation questions below. Clearly such a requirement would place an additional burden on chambers both financial and administrative, which may be viewed by the Bar as onerous. The benefit of such a requirement is likely to be fairer recruitment processes with the concomitant effect of improving BME and female recruitment rates in areas where such groups are currently under-represented.

- 3.16 The BSB is producing guidance for chambers on how to develop fair and objective selection criteria, effective interviewing techniques and work samples. The guidance will be published in the form of a handbook and will be available to download free of charge from the BSB website.

Equality Monitoring

- 3.17 *Your chambers must regularly review:*

- (a) the number and percentages of barristers and pupils from different groups;*
- (b) applications for mini-pupillage, pupillage, and membership of chambers;*
- (c) the allocation of work to pupils, barristers of less than four years' standing and barristers returning from parental leave.*

- 3.18 *This review must include, but is not limited to:*

- (a) collecting and analysing data broken down by race and gender;*
- (b) investigate the reasons for any disparities in that data; and*
- (c) taking appropriate remedial action.*

- 3.19 A Bar wide survey undertaken by the Legal Services Commission in November 2007 found significant gaps in the diversity of the self-employed Bar. Only 29% of self-employed barristers are women and there are also significant gender and ethnic differences across practice areas: "*women predominating in family work, white men predominating in civil work especially more commercial areas of law, and BME men and women in immigration*". These differences do

not reflect the expressed professional aspirations of students undertaking the Bar Vocational Course.

- 3.20 The survey goes on to find that family and immigration practitioners are in the lowest billing categories whilst commercial, international and EC law practitioners are in the highest billing categories. There are complex reasons for these imbalances, but recruitment processes are part of the mix. Chambers can only be assured that their processes are fair if they have sufficient evidence regarding applications and acceptances. Clearly, the above requirements will place an additional burden on chambers that will need to ensure systems are in place capable of capturing and storing the relevant data. This may be more onerous for smaller chambers or those with little or no HR or administrative support. However unless chambers collect this data on a systematic basis, they will not know whether certain groups are under-represented or suffering an apparent disadvantage. Such information is necessary if they are to be in a position to understand the reasons for any such effects and hence to determine whether their equality policies are being carried out and working effectively. Equality policies by themselves will not bring about equality. Without equality monitoring data, it is impossible to establish the nature or extent of any inequality, identify those areas where action is most needed, and whether measures aimed at reducing inequality are succeeding.
- 3.20 The Legal Services Board (LSB) will shortly consult on proposals to require approved regulators, such as the BSB, to request their members gather diversity data covering all the equality strands, plus social mobility data. The LSB is proposing that such data will be published and analysed to identify areas for action. In addition to this, the requirement to monitor is already partially assessed through the CPS Equality and Diversity Expectations for the Bar and the monitoring Practising Rule builds on this work.

Fair Access to Work

- 3.21 *The affairs of your chambers must be conducted in a manner which 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.*
- 3.22 The first part of this rule is an existing Code of Conduct requirement. Paragraph 404.2 (b) requires that heads of chambers (or those responsible for the administration of chambers) *“take all reasonable steps to ensure that the affairs of his chambers are conducted in a manner which is fair and equitable for all barristers and pupils”*.
- 3.23 In respect of the second part of this proposed rule, this is an existing provision of the current pupillage guidelines. The Pupillage Handbook 2010, at page 55, states: *“Work distribution amongst pupils should be explained and monitored to ensure fairness, in relation to chambers’ policies on work distribution”*.
- 3.24 The fair access to work rule is therefore not a new requirement and merely echoes existing provisions in the Code of Conduct and Pupillage Handbook and extends them to members as well as pupils.
- 3.25 The 2009 QAA focus groups report⁴ found that one of the main factors influencing career progression was the influence of clerks, many of whom *“have fixed views about the profile of counsel for specific types of case”* and that *“not enough was done to challenge perceptions”*. The focus groups further found that *“women in BME groups said they were stereotyped into sex cases and public law childcare cases whereas men tended to be given the more lucrative fraud, complex crime and ancillary relief cases”*.
- 3.26 The allocation of work within chambers is complex. It relies significantly on subjective judgments by clerks, clients and senior members of chambers. Those chambers that have committees to monitor the allocation of work report that they do on occasion identify patterns of allocation that are not explained by the skills or availability of the

⁴http://www.legalservices.gov.uk/docs/cds_main/Annex_B_QAAEqualityandDiversityFocusGroupReport_Jan09.pdf

individual pupil, trainee or junior. This problem can affect not just pupils but also junior tenants and barristers returning to chambers after an absence, hence the need to extend the rules to all members of chambers. Monitoring the allocation of work will enable chambers to respond effectively to complaints that the process is unfair and will assist in the retention of pupils and young barristers.

Harassment

3.27 *Your chambers must have a written anti-harassment policy which must:*

- (a) state that harassment will not be tolerated or condoned and that employees, members of chambers, pupils and others temporarily in chambers such as mini-pupils have a right to complain if it occurs;*
- (b) set out how the policy will be communicated;*
- (c) set out the procedure for dealing with complaints of harassment.*

3.28 The evidence regarding harassment in chambers is largely anecdotal as set out in the “Young Bar Committee: Experiences of Pupillage” paper. The Pupillage Review refers to the difficulty in establishing a solid evidence base for this problem as pupils tend to be wary of making complaints. The review recommends that chambers should have informal procedures for dealing with these problems which should be properly publicised.

3.29 Policies that encourage staff and members of chambers to report concerns about harassment are more likely to ensure that such concerns are resolved without recourse to legal action.

Parental Leave

- 3.30 “Parental leave” refers to leave taken by the main carer of a child following birth or adoption. This could be the mother, father or adoptive parent of either sex.
- 3.31 *Your chambers must have a parental and adoption leave policy which covers:*
- (a) The right of a member of chambers to return to chambers after a specified period (which must be at least one year) of parental or adoption leave.*
 - (b) The extent to which a member of chambers is or is not required to contribute to chambers’ rent and expenses during parental leave. This includes, but is not limited to, the method of calculation of any waiver, reduction or reimbursement of chambers’ rent and expenses during parental leave.*
 - (c) The procedure for dealing with grievances under the policy.*
 - (d) Chambers’ commitment to review regularly the effectiveness of the policy.*
- 3.32 *Your chambers must offer its members a minimum of 6 months parental leave, or leave following adoption.*
- 3.33 *Where rent is paid on a flat rate basis, your chambers must offer members taking a period of parental leave, or leave following adoption, a minimum of 6 months free of chambers’ rent.*
- 3.34 *Your chambers must have a flexible working policy which covers the right of a member of chambers to take a career break, to work part-time, to work flexible hours or to work from home to enable them to manage their family responsibilities and remain in practice.*
- 3.35 The reasons for the proposed new rules in this area are numerous, ranging from new EU legislation on maternity rights to the need for the BSB to take action to improve currently low retention rates for women at the Bar. A summary of these reasons is provided below:

- a) New law: A new EU directive came into force in August 2010 under which self employed workers gain maternity and pension benefits. The directive provides that self-employed women, assisting spouses and life partners of self-employed workers are granted a sufficient maternity allowance and a leave period of at least 14 weeks should they choose to take it. This is the first time a maternity allowance has been granted to self-employed workers at an EU level. The directive also provides that assistant spouses and life partners of self-employed workers will have the right to social security coverage (such as pensions) on an equal basis as formal self-employed workers, if the member state offers such protection. Member states have two years to introduce legislation into national laws, i.e., by 5th August 2012. The parental leave rules as set out above seek to reflect the principle of new national legislation on this issue.
- b) Entry to the Bar Report: The Entry to the Bar Report highlights that women are being lost to the profession in greater numbers than men during their early years of practice. Self employed practice was identified as presenting particular obstacles for women. The evidence indicates that women often move to the employed bar where employment protection provides a reliable framework.
- c) Changing Practice Survey: The survey of Barristers Changing Practice Status 2001 – 2008 undertaken in December 2009 found that “The gender profile of leavers confirms other data held by the General Council of the Bar that women are more likely than men to leave or change practice status. About half the leavers in 2008 were women, although women make up less than a third of practising barristers. Childcare responsibilities were given as a reason for leaving by 3% of men and 29% of women. Just over a third of those who had had children while in practice felt that this had adversely affected their career; this was particularly true of women, with over six in ten feeling adversely affected”.
- d) The 2009 QAA focus groups report found that “*there was a consensus that childcare responsibilities have a major impact on career choice and progression*”. It also found that the general view was “*once women had*

children it was difficult to maintain a criminal practice". The survey further found that "the types of cases women take on pay the least; this makes it difficult to continue practice in crime and public law children cases when the cost and practicality of childcare arrangements arise. There were many examples where women enter the employed Bar when returning to work after having children...due to the increased levels of stability within employed practice".

e) Rule by Rule rationale:

- i) *Requirement to have a parental leave policy.* This ensures that chambers gives consideration as to how it will support men and women taking parental leave and ensures a framework is provided that applies to all equally.
- ii) *Requirement that chambers offers at least 6 months parental leave.* This reflects the statutory minimum for employed people and is more generous than the required 14 weeks set out in the new European Directive on maternity rights/benefits. This consultation proposes that the minimum period offered should be 6 months, however the consultation questions consider whether a period of 3 months would be more appropriate.
- iii) *Requirement that where rent is paid on a flat rate basis parental leave must be free of flat rate rent.* The rationale for this rule is that those paying rent on a flat rate basis face a financial burden, as they continue to pay rent at full rate during a time when they are not generating receipts. This contrasts with the position of those paying rent on a percentage basis (where payments are directly related to income), who do not generate income whilst on leave and therefore do not pay rent. The parental leave working group considered proposing a rule requiring that the rent free period should apply irrespective of the model of rent calculation, however the group felt that, in practice, such a rule may confer an additional benefit on barristers working in chambers that calculate rent on a percentage rate basis, since fees

earned prior to parental leave may arrive in the rent free period. The consultation question at I(i) asks for views on this alternative option.

- iv) *Requirement that chambers must have a flexible working policy which covers the right of a member of chambers to take a career break, to work part-time, to work flexible hours or to work from home to enable them to manage their family responsibilities and remain in practice.*

Research indicates that, in the self-employed Bar, women are significantly more likely than men to leave or change practice status. The annual Survey of Barristers Changing Practice Status found that 51% of leavers in 2008 were women, although women made up 31% of practicing barristers; this compares to 54% of leavers from the employed Bar where women made up 46% of practicing barristers. Self-employed practitioners called to the Bar between 4 and 7 years ago are at most at risk of leaving, accounting for nearly a quarter of leavers but only 15% of current practitioners; once practitioners have gained more than 12 years' experience the likelihood of their leaving or changing status reduces considerably. The survey also found that two in ten men and four in ten women leavers had been influenced by the desire to spend more time with their families and that women were also particularly influenced by too much work related travel, inflexible working arrangements and pressure of work. Childcare responsibilities were given as a reason for leaving by 29% of women and 3% of men; almost a third of those who had had children while in practice said that more flexible working arrangements would have been useful.

4 Good Practice Guidelines

Consultation on the Good Practice Guidelines Accompanying the New Rules

- 4.1 The attached draft guidelines are included in this consultation as they are directly relevant to the new regulatory requirements. It is intended that barristers will use the guidelines to assist them in understanding, and meeting their obligations under, the new regulatory requirements. As with the current Equality and Diversity Code, adherence to the guidelines may be considered as evidence in any alleged breach of the Equality and Diversity provisions in the Code of Conduct or Practising Rules.
- 4.2 The guidelines are divided into sections reflecting the action areas set out above. They contain best practice advice and will be of particular use to Heads of Chambers, Equality and Diversity Officers and those involved in selection and recruitment panels.

5 Consultation Questions

- a) Do you agree that the new regulatory equality provisions should be integrated within the Code of Conduct?
- b) Do you agree that the proposed new Conduct Rules should apply to all practising barristers including employed barristers and those who are managers or employees of recognised bodies?
- c) Do you agree that the obligations should apply not just to a barrister's own chambers or other place of business but also to any ProcureCo through which s/he obtains business?
- d) Do you think it is appropriate that the proposed rules place a personal obligation on all self-employed barristers to take all reasonable steps to ensure that the rules are complied with as opposed to putting the onus only on Heads of Chambers or those with the responsibility for the administration of chambers?
- e) Do you agree with the proposed requirement that from 1 January 2013 that the member/s of chambers with lead responsibility for the recruitment of tenants, pupils, clerks and mini-pupils and at least one member of every selection panel except in unforeseen and exceptional circumstances, who may be the same person, must have received recent and appropriate training in fair recruitment and selection processes?
 - i. Do you believe the 1 January 2013 deadline to be realistic and achievable?
 - ii. Do you think the Bar Standards Board should regulate the training undertaken for this purpose?
- f) In light of the Neuberger recommendation that all barristers involved in selection be trained, would you agree with a requirement that by 1 January 2014 every member of all

selection panels involved in the recruitment of tenants, pupils, clerks and mini-pupils must be trained in fair recruitment processes?

- g) Do you agree with the proposed requirement that chambers recruitment and selection processes use objective and fair criteria?
- h) Do you agree with the proposed requirement that chambers must collect and analyse the actual numbers and percentages of barristers and pupils in chambers from different groups on an annual basis and that these groups must include as a minimum race and gender?
 - i. Do you agree that this should be done annually?
 - ii. Do you think that data should also be gathered on disability?
- i) Do you agree with the requirement that all chambers must collect equalities data on applications for mini-pupillage, pupillage, and starter tenancies and analyse the success of different groups at each stage of the selection process on an annual basis and that these groups must include race and gender as a minimum?
 - i. Do you agree that this should be done annually?
 - ii. Do you think that data should also be gathered on disability?
- j) Do you agree with the proposed requirement that chambers that take pupils must regularly review the allocation of work to pupils, tenants in their first three years and members returning from parental leave?
 - i. Do you agree that this data should be required to be broken down by race and gender only?
- k) Do you agree with the proposed requirement that all chambers must have a policy on parental and adoption leave?

- l) Do you agree with the proposed requirement that chambers must offer their members a minimum of 6 months parental leave, or leave following adoption?
 - i. If not, would you agree with a requirement that chambers must offer members a minimum of three months parental leave or leave following adoption?

- m) Do you agree with the proposed requirement that where rent is paid on a flat rate basis, parental leave must be rent free?
 - i. Would you agree with a rule requiring that the parental leave period must be rent free irrespective of whether the chambers rent is calculated as a percentage of fees earned or is a flat rate payment?

- n) Do you agree with the proposed requirement that any member or pupil must have the right to return to her /his chambers as a tenant following a period of parental or adoption leave?
 - i. Do you agree that this right to return should continue for a period of at least a year?

- o) Do you agree with the proposed requirement that chambers must have written policies permitting members of chambers (male or female) to take career breaks and work flexible hours, or part time, or partly from home?

- p) Do you think that compliance with the any of the new regulatory requirements will place a financially onerous burden on chambers?
 - i. If so can you provide evidence of how the particular requirement might burden chambers financially and what revisions might be made to mitigate or remove such a burden?

- q) Do you think that the guidance is useful in understanding what is required by the new regulatory rules?

- r) Are there any areas not covered by the regulatory requirements and/or guidance which you think need to be covered?

6 Responding to the Consultation

A list of those to whom this consultation paper is being sent is attached at Annex 1. This list is not exclusive and responses are welcome from anyone who has evidence or views about the issues raised in this paper. Consultees are welcome to comment on all or only some of the issues set out in this paper and to provide comments on issues not specifically covered by the questions.

The BSB will summarise the responses received and will publish the summary document on its website. If you do not want your response or a summary of it published please make that clear when you reply to us.

Responses to this consultation must arrive by 5pm on 1 March 2011 and should be sent to: equality@barstandardsboard.org.uk

Hard copy responses should be sent to:

Equality and Diversity Unit

Bar Standards Board

289 – 293 High Holborn

London WC1V 7HZ

Annex 1 LIST OF CONSULTEES

All Heads of Chambers

Bar Standards Board Committees/Panels

Complaints Committee
Education and Training Committee
Equality and Diversity Committee
Qualifications Committee
Quality Assurance Committee
Standards Committee
Performance and Best Practice Committee

Bar Council Committees/Panels

Access to the Bar Committee
Alternative Dispute Resolution Committee
Bar Council Disability Sub-Group
Bar Council GMC
Bar Human Rights Committee
Employed Barristers' Committee
Equality and Diversity Committee
European Committee
Fees Collection Committee
Finance Committee
Information Technology Panel
International Relations Committee
Law Reform Committee
Legal Services Committee
Policy and Research Group
Professional Practice Committee
Public Affairs Committee
Remuneration Committee
Training for the Bar Committee
Young Barristers' Committee

Consumer bodies

Consumer Focus
Which?

Licensed Access organisations

Architects Registration Board
Architecture & Surveying Institute
Association of Authorised Public Accountants
Association of Average Adjusters

Association of Consultant Architects
Association of Taxation Technicians
Chartered Association of Certified Accountants
Chartered Institute of Loss Adjusters
Chartered Institute of Management Accountants
Chartered Institute of Taxation
Chartered Insurance Institute
Faculty of Actuaries
Incorporated Society of Valuers & Auctioneers
Institute of Actuaries
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Ireland
Institute of Chartered Accountants of Scotland
Institute of Chartered Secretaries and Administrators
Institute of Chemical Engineers
Institute of Financial Accountants
Institution of Civil Engineering Surveyors
Institution of Civil Engineers
Institution of Engineering and Technology
Institution of Mechanical Engineers
Institution of Structural Engineers
Insolvency Practitioners Association
Royal Institute of British Architects
Royal Institution of Chartered Surveyors
Royal Town Planning Institute

Other bodies

ACAS
AdviceUK
Advocacy Training Council
Association of Muslim Lawyers
Association of Women Barristers
Association of Asian Women Lawyers
Attorney General
Bar Lesbian and Gay Group (BLAGG)
Bar Mutual Indemnity Fund
Carter Diversity Group
Chancellor of the High Court
Chartered Institute of Patent Agents
Circuits
Commonwealth in England Barristers Association
Deaf Lawyers UK
Discrimination Law Association
Employers Forum on Age
Employers Forum on Religion and Belief
Employers Forum on Disability
Equality and Human Rights Commission
Council of the Inns of Court
Council of the Inns of Court disciplinary panel lay members
Council of the Inns of Court Disciplinary Tribunal chairs

Council of the Inns of Court Directions Judges
Council for Licensed Conveyancers
Crown Prosecution Service
Department for Business, Enterprise and Regulatory Reform
Inns of Court
Institute of Barristers' Clerks
Institute of Legal Executives
Institute of Paralegals
Institute of Trade Mark Attorneys
Law Centres Federation
Legal Action Group
Legal Complaints Service
Legal Practice Management Association
Legal Services Commission
Legal Services Consultative Panel
Legal Services Ombudsman
Lord Chief Justice
Master of the Rolls
MIND
Ministry of Justice
National Association of Citizens Advice Bureaux
Office of Fair Trading
Office of the Immigration Services Commissioner
President of the Family Division
President of the Queen's Bench Division
RNIB
Society of Asian Lawyers
Society of Black Lawyers
Sole Practitioners Group
Solicitor General
Solicitors Regulation Authority
South East Circuit Minorities Committee
Specialist Bar Associations
Stonewall
Turkish British Lawyers Society
The Gender Trust
The Law Society
The UK Association of Jewish Lawyers and Jurists
Victim Support

Bar Standards Board

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