

## **EQUALITY AND DIVERSITY POLICY**

The Equality Act 2010 (the Act) provides a legislative framework to protect the rights of individuals and advance equality of opportunity for all. Solicitors have duties as service providers and employers under the Act. Solicitors Regulation Authority Principle 9 identifies that we must run our business or carry out our roles within the business in a way that encourages equality of opportunity and respect for diversity.

### **1.0 THE FIRM'S COMMITMENT**

#### **1.1 General commitment**

This firm is committed to eliminating discrimination and promoting equality and diversity in its own policies, practices and procedures and in those areas in which it has influence. This applies to the firm's professional dealings with staff and partners, other solicitors, barristers, clients and third parties.

The firm intends to treat everyone equally and with the same attention, courtesy and respect regardless of:-

- race or racial group (including colour, nationality and ethnic or national origins);
- sex (including marital status, gender reassignment, pregnancy, maternity and paternity);
- sexual orientation (including civil partnership status);
- religion or belief;
- age;
- caring responsibility;
- disability.

We will make such adjustments as are reasonable in all the circumstances in order to prevent any of our employees, partners or clients who are disabled from being placed at a substantial disadvantage in comparison with those who are not disabled.

#### **1.2 Regulation and legislation**

In developing and implementing its equality and diversity policy, the firm is committed to complying with the Solicitors' Anti-Discrimination Rules 2004 and with all current and any future anti-discrimination legislation and associated codes of practice including, but not limited to:-

- The Equality Act 2010;
- The Employment Rights Act 1996;
- The Human Rights Act 1998
- The Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000;
- The Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2000;

- The Work and Families Act 2006;
- The Civil Partnership Act 2004; and
- Solicitors Regulation Authority Principle 9 and any relevant amendments or re-enactments of such legislation;

## **2.0 FORMS OF DISCRIMINATION**

Discrimination occurs when one person is treated less favourably than another is treated, or would be treated, in the same or similar circumstances without legitimate reason. The grounds upon which a person must not be discriminated against are shown in Section 1.1 of this appendix and those terms have the same meaning in this rule as they have in law. In particular we should note that:-

- discrimination on the grounds of race or racial group includes discrimination on the basis of colour, nationality and national or ethnic origin;
- sex discrimination includes discrimination against:
  - a married person on the grounds of their marital status;
  - a person who is about to undergo, is undergoing or has undergone gender reassignment;
  - a woman on the grounds of pregnancy or maternity;
  - a man on the grounds of paternity;
- this firm is subject to the provisions of the Equal Pay Act 1970;
- sexual orientation applies equally to those who are heterosexual as it does to those who are lesbian, gay or bisexual; discrimination based on sexual orientation includes discrimination against a person because they are in a civil partnership; it should also be noted that discrimination can be on the grounds of perceived sexual orientation as well as actual sexual orientation;
- disability is widely defined and includes stress-related illnesses (which do not need to be 'clinically well recognised' to be capable of founding a claim), progressive illnesses such as HIV and cancer from the time of diagnosis; illnesses which would be substantial if not controlled by drugs (such as insulin-dependent diabetes) and conditions such as learning disabilities or dyslexia which restrict a person's ability to interact or communicate;
- religion or belief includes philosophical beliefs similar to a religion (for example humanism); and
- age means any age, not just old age, and can include discrimination based on the age of others, e.g. a person's spouse. It should also be noted that discrimination can be on the grounds of perceived age as well as actual age.

Discrimination can take a variety of forms including direct discrimination, indirect discrimination, harassment, victimisation, less favourable treatment and failure to make an adjustment. A brief summary of each of these is set out below although we should rely upon the meanings assigned to them by law when interpreting our duties under this rule.

**Direct discrimination** occurs where one person treats another less favourably by reason of the grounds listed in Section 1.1 of this appendix and, in respect of age discrimination only, it cannot be shown that the treatment in question was justified. To treat a person less favourably for other reasons, for example because they have not performed adequately, will not generally be regarded as discrimination amounting to professional misconduct unless the true reason for the treatment is, or includes, one of the matters referred to above.

**Indirect discrimination** occurs where a provision, criterion, practice, requirement or condition (as appropriate) which is applied to everyone, has the effect of placing at a disadvantage a particular person, or group of people, by reason of:-

- race or racial group (including colour, nationality and ethnic or national origins);
- sex (including marital status, gender reassignment, pregnancy, maternity and paternity);
- sexual orientation (including civil partnership status);
- religion or belief;
- age; and it cannot be shown that to apply that provision, criterion, practice, requirement or condition in that way is a proportionate means for achieving a legitimate aim. *Note that the provisions relating to indirect discrimination are not applicable to discrimination on the grounds of disability.* Indirect discrimination can occur whether or not the person applying the provision, criterion, practice, requirement or condition intended to discriminate against the person or group of people affected.

**Victimisation** occurs when a person is treated less favourably because he or she has:-

- asserted a right not to be discriminated against on one of the prohibited grounds set out in Section 1 of this appendix;
- assisted another to assert a right not to be discriminated against on one of the prohibited grounds set out in Section 1 of this appendix; or
- given evidence in a tribunal or court relating to the assertion of such a right.

The protection applies only to assertions made in good faith.

**Harassment** occurs when one person subjects another to 'unwanted conduct that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment' (Section 4A(1) of the Sex Discrimination Act 1975, as amended by the Employment Equality (Sex Discrimination) Regulations 2005 (SI 2005/2467)); in other words threatening, abusive or insulting behaviour, words or actions which violate the other person's dignity or create a humiliating, intimidating or hostile environment.

Harassment may involve physical acts or verbal and non-verbal communications and gestures. Harassment can also occur where it has the defined effect upon the victim, notwithstanding the harasser's intention - it is the effect which the harassment has upon the victim that is important. For example, remarks made humorously or without malicious intent can still constitute harassment if that is the effect that they had upon the person being harassed.

In determining whether harassment has occurred we should be aware that a series of minor acts or comments can constitute harassment as can a one-off act of sufficient severity. However, the acts complained of must be capable of amounting to harassment. We should also be aware of the provisions of Section 4A(1)(b) of the Sex Discrimination Act 1975 in respect of sexual harassment.

**Less favourable treatment**, as used in relation to disability discrimination, occurs when a person with a disability is treated in a detrimental way in circumstances when a person without that disability would not be so treated. Thus, for example, charging more to a disabled client than a client without a disability because their disability means that more time is required to obtain instructions could constitute less favourable treatment, as could offering less favourable terms or refusing to act.

**Failure to make reasonable adjustment** is another concept used in relation to disability discrimination. We are under a duty to take such steps (adjustments) as are reasonable in all the circumstances to ensure that employment arrangements, arrangements for partners, members, clients, the premises from which our business is undertaken and the service provided, do not put at a substantial disadvantage a person with a disability when compared with a person without that disability, without justification.

The following points should be borne in mind when making a reasonable adjustment:-

- the duty to make the adjustment stands alone and requires no other form of less favourable treatment or intention to discriminate;
- the duty is a positive one - it requires that we take active steps to ensure that a person with a disability can access employment opportunities or services as if they did not have that disability;
- the cost of making the adjustment is one which must be absorbed by us, where it is reasonable to do so, and not passed on to the disabled client by way of a disbursement, additional charge or less comprehensive service;
- the duty is to make a **reasonable** adjustment - if the adjustment is not reasonable then we may not be under a duty to make it;
- the fact that the cost of the adjustment exceeds the charges or profits from the matter in question does not of itself make the adjustment unreasonable. A more relevant factor is the resources of the firm;
- an adjustment does not have to be a physical adjustment - it may simply be a change to working practices such as visiting a client at home if they are unable to access our premises;
- an adjustment is not always a one-off action - it may need to be made on numerous occasions, for example employing the services of a British sign language interpreter when advising a client with profound hearing loss. So long as the adjustment continues to be reasonable, its cost must be absorbed by us.

## **3.0 EMPLOYMENT AND TRAINING**

### **3.1 General statement**

As an employer, the firm will treat all employees and job applicants equally and fairly and not discriminate unjustifiably against them. This will, for example, include arrangements for recruitment and selection, terms and conditions of employment, access to training opportunities, access to promotion and transfers, grievance and disciplinary processes, demotions, selection for redundancies, dress code, references, bonus schemes, work allocation and any other employment-related activities.

### **3.2 Recruitment and selection**

This firm recognises the benefits of having a diverse workforce and will take steps to ensure that:-

- it endeavours to recruit from the widest pool of qualified candidates possible;
- employment opportunities are open and accessible to all on the basis of their individual qualities and personal merit;
- where appropriate, positive action measures are taken to attract applications from all sections of society and especially from those groups which are under-represented in the workforce;
- selection criteria and processes do not discriminate unjustifiably on the grounds listed in Section 1.1 of this appendix other than in those instances where the firm is exercising permitted positive action;
- wherever appropriate and necessary, lawful exemptions (genuine occupational requirements) will be used to recruit suitable staff to meet the special needs of particular groups;
- all recruitment agencies acting for the firm are aware of its requirement not to discriminate and to act accordingly.

### **3.3 Targets**

This firm will use its best endeavours to comply with Law Society policies and targets for the employment of ethnic minorities, as are produced from time to time in accordance with the provisions of anti-discrimination legislation.

### **3.4 Conditions of service**

This firm will treat all employees equally and create a working environment which is free from discrimination and harassment and which respects, where appropriate, the diverse backgrounds and beliefs of employees.

Terms and conditions of service for employees will comply with anti-discrimination legislation. The provision of benefits such as working hours, maternity and other leave arrangements, performance appraisal systems, dress code, bonus schemes and any other conditions of employment will not discriminate against any employee on the grounds listed in

Section 1 of this appendix (excluding disability), or unreasonably on the grounds of their disability.

Where appropriate and necessary, the firm will endeavour to provide appropriate facilities and conditions of service which take into account the specific needs of employees which arise from their ethnic or cultural background; gender; maternity/paternity status; responsibilities as carers; age; disability; religion or belief; or sexual orientation.

### **3.5 Promotion and career development**

Promotion within the firm will be made without reference to any of the forbidden grounds and will be based solely on merit.

The selection criteria and processes for recruitment and promotion will be kept under review to ensure that there is no unjustifiably discriminatory impact on any particular group.

Whilst positive action measures may be taken in accordance with the relevant anti-discrimination legislation to encourage under-represented groups to apply for promotion opportunities, recruitment or promotion to all jobs will be based solely on merit.

All employees will have equal access to training and other career development opportunities appropriate to their experience and abilities. However, the firm will take appropriate positive action measures (as permitted by the anti-discrimination legislation) to provide special training and support for groups which are under-represented in the workforce and encourage them to take up training and career development opportunities.

### **3.6 Post-employment**

This firm will also comply with the various provisions which prohibit discrimination after the end of a professional relationship and which apply to both staff and partners. It will, for example, exercise care when giving a reference for someone so as to ensure that it does not permit that reference to be in any way discriminatory or to appear to have been influenced by issues of a discriminatory nature.

## **4.0 PARTNERS**

Arrangements and procedures for selecting partners, their terms and conditions of partnership, access to benefits, facilities or services and termination arrangements will be reviewed and amended where necessary to prevent discrimination on any of the forbidden grounds.

## **5.0 BARRISTERS AND THIRD PARTIES**

### **5.1 Barristers**

Barristers should be instructed on the basis of their skills, experience and ability. The firm will not, on any of the forbidden grounds, avoid briefing a barrister and will not request barristers' clerks to do so.

Clients' requests for a named barrister should be complied with, subject to the firm's duty to discuss with the client the suitability of the barrister and to advise appropriately.

The firm will discuss with the client any request that only a barrister who is not disabled or who is of a particular gender, age, marital/civil partnership or maternity/paternity status, race, racial group, colour, ethnic or national origin, nationality, religion or belief or sexual orientation be instructed. In the absence of a valid reason for this request, which must be within the exemptions permitted by the anti-discrimination legislation, the firm will endeavour to persuade the client to modify their instructions insofar as they are given on discriminatory grounds. Should the client refuse to modify such instructions, the firm will cease to act.

## **5.2 Suppliers**

All lists of approved suppliers and databases of contractors, agents and other third parties who, or which, are regarded as suitable to be instructed by the firm have been compiled only on the basis of the ability of those persons or organisations to undertake work of a particular type and contain no discriminatory exclusion, restriction or preference.

## **6.0 CLIENTS**

This firm is generally free to decide whether to accept instructions from any particular client, but any refusal to act will not be based upon any of the forbidden grounds.

The firm will take steps to meet the different needs of particular clients arising from its obligations under the anti-discrimination legislation (such as the Disability Discrimination Act) and the Solicitors' Anti-Discrimination Rules 2004.

In addition, where necessary and where it is permitted by the relevant anti-discrimination legislation (for example, provisions relating to positive action or exemptions) the firm will seek to provide services which meet the specific needs and requests arising from clients' ethnic or cultural background; gender; age; responsibilities as carers; disability; maternity/paternity status; religion or belief; sexual orientation or other relevant factors.

## **7.0 PROMOTING EQUALITY AND DIVERSITY**

This firm is committed to promoting equality and diversity in the firm as well as in those areas in which it has influence. Employees and partners will be informed of this equality and diversity policy and will be provided with equality and diversity training appropriate to their needs and responsibilities.

All those who act on the firm's behalf will also be informed of this equality and diversity policy and will be expected to pay due regard to it when conducting business on the firm's behalf.

In all its dealings, including those with suppliers, contractors, recruitment agencies and training organisers, the firm will seek to promote the principles of equality and diversity. The firm will make every effort to reflect its commitment to equality and diversity in its marketing and communication activities.

## **8.0 IMPLEMENTING THE POLICY**

### **8.1 Responsibility**

Ultimate responsibility for implementing the policy rests with the partners of the firm. The firm has appointed an equality and diversity manager to be responsible for the operation of the policy.

## Awareness, compliance and exceptions

The firm will take all reasonable steps to ensure that all employees and partners are aware of, and act in compliance with the provisions of the policy. All current and new staff will therefore be briefed on its contents.

All employees and partners of the firm are expected to pay due regard to the provisions of its equality and diversity policy and are responsible for ensuring compliance with it when undertaking their jobs or representing the firm.

There are situations in which it is permitted to discriminate without breach of the legislation or the code of conduct. In some instances this will be by way of specific exceptions to the legislation, whilst in others it will depend upon the nature of the discrimination and the extent to which it can be justified. Where such discrimination is thought appropriate to the situation, the matter must be referred to the senior person responsible who will check the guidance available on the subject to ensure that a breach will not result.

### **8.2 Availability**

This policy can be made available to clients, the Solicitors Regulation Authority and other relevant third parties where required.

### **8.3 Breaches**

Acts of discrimination or harassment on any of the forbidden grounds in Section 1.1 of this appendix by employees or partners of the firm will result in disciplinary action. Failure to comply with this policy will be treated in a similar fashion. The policy applies to all who are employed in the firm and to all partners.

Acts of discrimination or harassment on any of the forbidden grounds by those acting on behalf of the firm will lead to appropriate action including termination of services where appropriate.

### **8.4 Complaints of discrimination**

The firm will treat seriously and will take action where appropriate concerning all complaints of discrimination or harassment on any of the forbidden grounds made by employees, partners, clients, barristers or other third parties.

All complaints will be investigated in accordance with the firm's grievance or complaints procedure and the complainant will be informed of the outcome.

### **8.5 Monitoring**

The policy will be monitored and reviewed in a manner proportionate to the size and nature of the firm on a regular basis (and in any event at least annually) to measure its progress and judge its effectiveness. In particular, the firm will, as appropriate, monitor and record:-

- the gender, age and ethnic composition of the workforce and partners as well as the number of disabled staff and partners at different levels of the organisation;

- the ethnicity, gender, age and disability of all applicants, short-listed applicants and successful applicants for jobs and training contracts;
- the ethnicity, gender, age and disability of all applicants for promotion (including to partnership level, to the role of a member of a limited liability partnership or director of a company) and training opportunities and details of whether they were successful;
- where it is possible to do so, and where doing so will not cause offence or discomfort to those whom it is intended to protect, the sexual orientation and religion or belief of all partners and staff will be monitored so as to ensure that they are not being discriminated against in terms of the opportunities or benefits available to them. Staff should, however, be aware that partners and staff may not choose to disclose their sexual orientation or religion or belief and that care should be taken to avoid inadvertent discrimination in such cases;
- the number and outcome of complaints of discrimination made by staff, partners, barristers, clients and other third parties;
- the disciplinary action, if any, taken against employees by race, age, gender and disability;
- situations where permitted exceptions and justifiable discrimination has been applied.

## **8.6 Evaluation and update**

This information will be used to review the progress and impact of the Equality and Diversity Policy. Any changes required to this policy and supporting procedures will be made, promoted and implemented. We also provide equality and diversity information to the SRA as required.