



Family Career Breaks Advice Pack



2016

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Using this guide

This information pack includes advice, tips and checklists we make available during Bar Council's *Family Career Breaks* events, held annually.

We regularly update the contents to ensure we provide current and useful information.

Bar Council is keen to share the latest in good practice to support you in either temporarily closing down your practise, or re-starting your practise before or after a career break to have a family.

If you would like to share your experience, a tip or piece of advice with other barristers, please email me SMercer@barcouncil.org.uk and we will include it in future versions of this guide.

If you identify gaps in our advice and you would like further information on any issue relating to a family career break, please do not hesitate to contact me 0207 611 1320.

A handwritten signature in black ink, appearing to read 'Sam Mercer', written in a cursive style.

Sam Mercer
Head of E&D and CSR, Bar Council

Your Career Break Check List: Closing Down

- Check your chamber's career break/parental leave /flexible working policies (and/or BSB Handbook)
- Cancel your Professional Indemnity Insurance (BMIF) – only if you are suspending your practising certificate at the same time
- Check CPD requirements (you may be entitled to an exemption – but only if you are suspending your practising certificate at the same time)
- Practising Certificate Fees (you may be entitled to a reduction)
- Bank/Bank Manager (let them know what is happening)
- Chambers Rent – Put direct debits on hold
- Hold a practice meeting
- Put a return/update meeting in your diary
- Accounts – make sure they are up to date & provision for tax/ year end/pension provision
- Allow for VAT (It is probably best not to de-register if you intend to return before all your aged debt and outstanding work has been billed and paid)
- Apply for maternity benefit – if eligible (the timing is important)
- Legal online library subscription (decide whether to maintain or suspend)
- Amend email addresses/out of office messages/voice mail message
- Nominate a chambers buddy – someone to check your pigeon hole and liaise with clerks, members of chambers in your absence
- Decide what you want to be told about (e.g. chambers meetings, chambers parties/ seminars/solicitor events/changes to management committee/staff/recruitment to chambers)
- Make sure your home internet access is OK
- Agree the list of solicitors to be told about your going/events during your break (e.g. the birth of your child)/plans for coming back
- Agree the contact details (for your support network, buddy, to given to clerks etc.)

Your Career Break Check List: Starting Up Again

- Check your Chambers career break/parental leave /flexible working policies (and/or BSB Handbook)
- Renew your Professional Indemnity Insurance (BMIF) and allow sufficient time to do so
- Check CPD (you may be entitled to an exemption)
- Apply for your Practising Certificate Fee if you cancelled it (you may be entitled to a reduction) and allow sufficient time to do so
- Inform your Bank/Bank Manager
- SBA/Circuit/Bar Mess (see what courses they run for returning barristers)
- Chambers Rent – Direct debits (put back in place)
- Hold a practice meeting in advance of your return with your clerk
- Accounts – up to date & provision for tax/ year end/pension provision
- Re-register for VAT (if appropriate – see previous checklist)
- Renew your legal online library subscription
- Amend your email addresses/out of office messages/voice mail message
- Set up your home for home working (e.g. internet access, printing etc.)
- Inform solicitors about your plans for coming back

Career Breaks: Advice

Bar Council Subscriptions/Practising certificate

You may be entitled to a reduction in the fee and/or to pay by instalments. If you choose to relinquish your practising certificate then this has a knock on effect to e.g. CPD requirements.

Check the up to date position with the Practising Fee Section of the BSB's website [https://www.barstandardsboard.org.uk/regulatory-requirements/the-old-code-of-conduct/annexes-to-the-code/annexe-d-the-practising-certificate-regulations-\(1\)/](https://www.barstandardsboard.org.uk/regulatory-requirements/the-old-code-of-conduct/annexes-to-the-code/annexe-d-the-practising-certificate-regulations-(1)/)

BMIF

You may be entitled to pay a lower rate if you are off work for a period or back at work but working reduced hours.

Check the up to date position with the BMIF and keep them informed. Tel. 020 7621 0405.

CPD

Check the up to date position with the Bar Standards Board and keep them informed – changes are proposed to CPD.

Consider whether you want to seek a reduction in CPD commitments; some find attending CPD courses during their break useful for keeping their hand in and increasing confidence. Attending chambers seminars or SBA events will also provide opportunities to network and find out what is going on.

How you deal with CPD is a personal decision; a reduction might be practically the better option, particularly if the CPD options historically chosen by the leaver are ones which require attendance at seminars that might not be compatible with breastfeeding, etc. But, you should note that there are so many online options, you could do all your CPD online and towards the end of your leave period.

Your SBA may have useful catch up courses/information – keep in touch with them.

Chambers Rent – Direct debits

Check the relevant chambers policy re sabbatical/parenting break etc. and agree how it will be implemented in advance to avoid misunderstandings.

Have a Practice meeting Before You Go

You may not know exactly when you are coming back or how well you will cope when you do, but that is not reason for you not to discuss matters with your Head of Chambers/Clerks

/Practice Manager as appropriate. It may be worth minuting the discussion to avoid misunderstandings later. Try and agree whether you want to be offered paperwork while you are absent. Are you prepared to contribute to chambers' newsletters or seminars while you are absent? If you do not say what you want and know what chambers are expecting then it is all too easy to feel pestered or ignored if your expectations do not match up with theirs. It is good to talk.

How realistic are your expectations for your return to work? Is your practice manageable on a part-time basis if you want to? If so can it be organised as, say, 3 or 4 days per week, or would it be better to take longer gaps between cases, especially during school holidays (i.e. traditional law vacations)? You may want to start thinking about adjustments to your practice?

Put a Return/Update Meeting in your Diary

It is very easy to think that you will leave this to be fixed "when you are ready" and then for it not to happen. "I am waiting until they are ready" is too easily interpreted as "they are no longer interested in me". Putting a date in the diary avoids such a misunderstanding. It may need to be changed, but do not take the date out without ensuring that another date is planned.

Accounts

Check:

- Your accounts are up to date;
- that you have made a provision for tax;
- if your year end needs adjusting;
- that you have made pension provision; and
- your accountant knows what is happening and how to get hold of you

VAT

- Decide if you will remain registered; and
- If so how you will do your returns.

Maternity Benefit

This is one of the few benefits that the money you pay for NI as a self-employed person actually entitles you to, so you might as well claim it.

Information on benefits, both statutory maternity pay and maternity allowance, is available at <https://www.gov.uk/maternity-allowance>

Bear in mind there are up to 10 "keeping in touch" work days allowed before you return to work. Information about this is available at <http://www.workingfamilies.org.uk/>

Legal online library subscription services

Consider what you want to have during your break. It may be tempting to cancel everything, but consider what it would be useful to keep up to date with to make a return easier.

Email Addresses/Out of Office Messages/ Voice Mail Message

What message do you want solicitors and fellow members of the Bar to get when they try and contact you? If you say nothing they may get frustrated and fed up. If you are open they may join in the excitement of your break and look forward to your return.

Nomination of a Chambers Buddy – Contact Routine

How will you find out what is going on in your absence? If everyone thinks “I do not want to bother him/her, someone else will tell him/her” then you may not get to know even quite important things. You may come back to discover the Head of Chambers and senior Clerk have changed and the set has moved to a new address; better to know as it goes along. Ask one person to keep you informed and to check your pigeon hole and your diary from time to time to make sure all is well and notify you of (or sort out) any problems.

Establish what you want to be told about Chambers meetings, chambers parties, seminars, solicitor events and changes to management committee and staff. Tell those responsible. They may be senior or junior members of the clerking team. Do not expect them to guess what you want. What you want may not be the same as the last person to take a break.

Home Internet Access

To help you keep in touch make sure that you have internet access and that you can have remote access to chambers intranets/diary etc. Make sure your contact numbers are on the chambers system so that calls can be patched through to you if you wish. You may want to leave a list of solicitors who you do want patched through, and those that you do not.

Informing Solicitors

Leave a list of solicitors to be told about going/events during break (e.g. birth of your child etc.) and coming back, and keep a copy, with telephone numbers, addresses and email addresses so you can contact them if you want to.

Some solicitors will know more about what you are up to than others, and you may wish some to be kept informed of developments but not others. Do not expect the clerks to guess which ones unless you are happy if they get it wrong.

Contact Details for Support Network on Mobile/Given to Clerks

If you come back after having children then your life will have changed. Make sure that your clerks understand your child care arrangements and commitments so they can work round them. Build a network of other supporting parents and/or family who can stand in and do

the pickup from school if there is a problem. Consider whether you want the clerks to have these numbers in case of emergency.

You and Your Practising Certificate

Should I maintain my Practising Certificate?

Pros

- You will be available to work immediately if you wish to
- It saves the effort of suspending/reapplying

Cons

- Cost
- CPD requirements

What is the process for renewing your practising certificate?

Simply contact the Bar Council's Records Department T: 0207 242 0934 or email records@barcouncil.org.uk

Frequently asked questions:

How long does that process take?

If you meet the criteria, you can get your certificate almost immediately, but allow a couple of days to be on the safe side (during the Authorisation to Practice period in February/March it can take longer as the Records office is very busy)

Is there a period of time after which there are additional hurdles or requirements associated with regaining a practicing certificate?

As of 1 April 2015 there will be additional hurdles if you haven't practiced for 5 years (see rS45 in the BSB Handbook below)

rS45 You are eligible for a practising certificate if:

.1 you are a barrister or registered European lawyer and you are not currently suspended from practice and have not been disbarred; and

.2 you meet the requirements of Rules S46.1, S46.2, S46.3 or S46.4; and

.3 [either:

.a within the last 5 years either (i) you have held a practising certificate; or (ii) you have satisfactorily completed (or have been exempted from the requirement to complete) either the non-practising period of 6 months of pupillage or 12 months of pupillage; or

.b if not, you have complied with such training requirements as may be imposed by the Bar Standards Board.]1

rS46 You are eligible for:

.1 a full practising certificate if either:

- .a you have satisfactorily completed 12 months pupillage; or*
- .b you have been exempted from the requirement to complete 12 months of pupillage; or*
- .c on 30 July 2000, you were entitled to exercise full rights of audience by reason of being a barrister;*
or
- .d you were called to the Bar before 1 January 2002 and:*
 - .i you notified the Bar Council that you wished to exercise a right of audience before every court and in relation to all proceedings; and*
 - .ii you have complied with such training requirements as the Bar Council or the Bar Standards Board may require or you have been informed by the Bar Council or the Bar Standards Board that you do not need to comply with any such further requirements; in each case, before 31 March 2012*

In the absence of a Practising Certificate, in what capacity can a barrister remain linked with/a member of chambers?

You can be a non-practising member of chambers or a door tenant, but it must be clear that you are not currently accepting instructions.

What are the pros and cons of keeping your certificate and insurance, and complying with CPD and not practising?

In keeping your practising certificate you are required to comply with CPD and hold insurance with BMIF which will have a cost implication. Additionally, even if you do not practice you are subject to the whole of the BSB Handbook which includes the Cab Rank Rule. Therefore if you are approached to take instructions you may be obliged under the Cab Rank Rule to accept the instruction unless rC30.2 applies:

The cab rank Rule C29 does not apply if: accepting the instructions would require you or the named authorised individual to do something other than in the course of their ordinary working time or to cancel a commitment already in their diary;

Therefore it would be advisable to block out in your diary that is accessible by Chambers, the time that you are not accepting instructions. It is permitted within the Handbook to block out time when you are not available and therefore the cab rank rule would not apply to instructions asking you to do work during those days.

Useful Numbers and Websites

The Bar Council Records office should be contacted about practising certificate inquiries including fees and the Bar Standards Board about CPD requirements.

The Bar Council **Records Office** (T: 0207 242 0934 or records@barcouncil.org.uk).

Bar Mutual Insurance Fund (**BMIF**) T: 020 7621 0405 or www.barmutual.co.uk

Bar Standards Board T: 0207 831 9217 or www.barstandardsboard.org.uk

VAT Online Helpdesk on T: 0845 010 86500 or, to register for VAT online at www.online.hmrc.gov.uk.

Information Commissioner – You will need to ensure you are registered with the Information Commissioners' Office by the time you return to practice. Contact by phoning 0303 123 1113 and ask for a registration form. The Information Commissioner will send you a copy of your last completed form which will assist in completing the form. At the time of writing the fee for registration is £35.

The Bar Council **Parental Support Hub** (www.barcouncil.org.uk/for-the-bar/introduction-to-member-services/parental-support-hub/ or memberservices@barcouncil.org.uk)

The Bar Standards Board's Handbook **Equality and Diversity Rules:**
<https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

Judicial Appointments Commission (www.jac.judiciary.gov.uk/)

Advice from Clerks to Barristers

Before your career break

- Talk to your clerks/practice manager – agree what your solicitors will be told
- Agree how you want to maintain contact whilst you are away – emails and/or phone calls – how often?
- Give serious consideration to maintaining your practising certificate and CPD whilst away – it keeps everything fresh and means you keep up to date with all the legislative & other changes whilst you are away
- Consider how adaptable your current practice is? Do you need to look at diversifying or concentrating on areas more conducive to family life? Warned list cases in the Crown Court can rarely be manipulated to meet school runs, prize giving and sports day!
- Give serious consideration to child care issues before you leave – nursery places can often be full for 12 months or more and child minders/nannies may not be available when you want them unless you investigate first

After your career break

- Contact your clerks/practice manager well in advance of your return, to fix up a date for discussing how and when you plan to return and whether you want to “phase in” your return over a period of days/weeks.
- Make sure you use all your contacts to let everyone know you are back and ready to accept instructions. Try and make arrangements to meet people that suit your family commitments – see if people will meet for a quick morning coffee or lunch if you prefer to avoid evening meetings now you have family commitments
- Offer people alternatives that suit your new regime. Rather than just saying you can't/won't do evening conferences, offer to do a telephone conference once the children are in bed – or offer to meet the client during the day instead. Skype and FaceTime are also viable alternatives.
- Don't expect life to be the same!

Advice from Barristers to Barristers

Before/during a career break

1. Budget and save money - plan your finances. Speak to your accountant very early on (financial planning can affect the quality of your break)
2. Plan your work as much as possible
3. Communicate with your clerk, chambers and professional clients
4. Talk to your partner/family and start to think about childcare
5. Consider how you want to communicate with your clerk during your career break. Establish contact rules. Consider having a separate career break email address
6. Be as flexible as you can
7. Accept you can't do everything all the time; manage your own and others' expectations
8. Determine to keep yourself up to date on developments and education
9. Forge and maintain relationships inside and outside of chambers
10. Keep options open by keeping in touch (and not burning bridges)

After a career break

1. Be positive
2. Communicate. Communicate. Communicate!
3. Be proactive about your diary and practice management. Set yourself and your clerks achievable objectives
4. Have daily/regular communication/updates on workloads
5. Invest in your personal relationship with your clerk
6. Be prepared to work unusual hours
7. Don't be afraid to say 'no' to work you can't do. Be bold and clear about defining your work parameters with clients and colleagues. Set boundaries and be clear on how much work you are willing to take on
8. Try to take cases that fit with family life when you return
9. Have a contingency plan
10. Remember to take time for yourself

Family Career Breaks FAQs

In determining any course of action your first port of call should be the BSB Handbook <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/the-handbook-publication/> and your rule of thumb should be maintaining your 'integrity'

1. **"You are 36 weeks pregnant and solicitors want you to attend a conference at their offices 2 hours away by train from your chambers. You would rather have the conference in chambers and are concerned about travelling, and this is your last week in chambers before your baby is due. Your clerks think it would be wise to go to the solicitor's office. What should/could you do?"**

Answer:

First find out if there is any particular reason that you need to go to the solicitors' offices. It is OK to ask. Explain that you are due to go on maternity leave the following week and travelling is difficult. You may cease to act. The Handbook references pregnancy in rules around returning instructions...rC26 You may cease to act on a matter on which you are instructed and return your instructions if: .3 you are a self-employed barrister; and .b illness, injury, pregnancy, childbirth, a bereavement or a similar matter makes you unable reasonably to perform the services required in the instructions;

However you do need to consider rC26.3.b in relation to guidance gC83 (gC83: In deciding whether to cease to act and to return existing instructions in accordance with Rule C26, you should, where possible and subject to your overriding duty to the court, ensure that the client is not adversely affected because there is not enough time to engage other adequate legal assistance).

If they have a reason you need to attend in person you may need to hand over the case (rC17 Your duty to act in the best interests of each client (CD2) includes a duty to consider whether the client's best interests are served by different legal representation, and if so, to advise the client to that effect.). If you haven't yet arranged for someone to take over the case already this may now be the point to do so.

2. **"You are due to be home by 6.30pm to put your kids to bed - you're still breastfeeding the youngest. The magistrate is very reluctant to adjourn for the day until the list is finished. By 5pm you are coming up to the point when you have to leave if you are to get home in time - what can you do?"**

Answer:

It is perfectly acceptable to ask to leave by a certain time. You should note that you have a duty not to mislead the court (rC3.1), so the reason given must be accurate. More generally, if you need to leave by a certain time always try and inform the court officials/magistrate as early as possible in the day. You can try negotiating with other counsel to enable your listing to take place earlier.

As an aside, you need to try and plan for this type of eventuality and perhaps have ensured someone is in a child to put your child to bed/you have expressed breast milk earlier and this is available to your child.

- 3. "You are at court and have to list your case for a further hearing. The dates given by the clerk for the next hearing are for 6 months hence when you know you'll be on maternity leave. You're in the early stages of pregnancy and have not yet told your clerks that you are expecting. Do you list the dates in your diary and then pass the case to someone else once you've told your clerking team, or do you list it in someone else's diary straight away and come up with another reason why you can't do the case".**

Answer: At this stage uncertainty surrounds early pregnancy, and you may not wish to disclose your pregnancy until it has been confirmed at 12 weeks or later. This is perfectly understandable. You may genuinely not know where you will be in 6 months' time. On this basis you can list this case in your own diary until closer to the time when you are in a position to tell people that you are pregnant. Do however note you have a duty not to mislead the court (rC3.1).

- 4. "You are exactly 40 weeks pregnant and have started to feel twinges...you have officially stopped work and the clerks phone up and ask you to have a word with a solicitor about a case which you've worked on previously - you can't remember anything about it and just want a sleep! What should you say to your clerks?"**

Answer:

You are not required to assist your clerks/solicitor while on parental leave. You may wish to do in order to maintain good relations with your professional client. Before taking leave you should discuss with your clerks on the type of contact you wish to have during your parental leave.

This question does highlight the importance of an effective case handover and of making notes/ensuring paperwork is in order prior to taking leave.

- 5. "You are told by a midwife you have to attend an ante natal appointment at a time when you are already booked for a court appearance. You cannot change the appointment although you have tried. Do you have to attend court? What can you do?"**

Answer:

You should consider your position under rC26.3.b. in the context of gC83 (gC83: In deciding whether to cease to act and to return existing instructions in accordance with Rule C26, you should, where possible and subject to your overriding duty to the court, ensure that the client is not adversely affected because there is not enough time to engage other adequate legal assistance). With enough notice you should be able to reschedule ante natal appointments. Make sure your appointments are blocked out in your diary.

- 6. "You have a pupil who tells you in confidence just before her tenancy decision that she is 1 month pregnant. You alone know that if she is taken on she will be on maternity leave fairly soon in her tenancy, at a time when junior work needs to be serviced. Do you tell your head of chambers?"**

Answer:

No. You have been given this information in confidence and need to respect this.

You should also note that the information you have been given is irrelevant to her tenancy decision. You and your chambers have a duty not to discriminate (CD8 – ‘You must not discriminate unlawfully against any person’; and rC12 – ‘You must not discriminate unlawfully 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, or **pregnancy and maternity**’).

7. **“You are a junior tenant in chambers. Due to your child’s health crisis you want to limit the type of work and do not wish to travel. You have made arrangements with a local CPS contact to channel all their local work to you. Your clerks and colleagues and chambers are unhappy with this arrangements. What should you do?”**

Answer:

You should speak to your chambers’ Equality & Diversity Officer (EDO) and Head of Chambers about this and whether it may be for a limited period only. Your chambers has a duty to ensure a fair distribution of work rc110.i. (rC110.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’)

8. **“You are a father with a young family and only want to work Monday – Thursday. Lots of women in chambers do the same. Your clerks are reluctant to support you in this and argue it is different for men. What should you do?”**

Answer:

It is perfectly acceptable for you to expect to be treated in the same way as women in your chambers. You should speak to your chambers’ Equality & Diversity Officer (EDO) and Head of Chambers about this. It is important to remember barristers have a duty not to discriminate (CD8 and rC12) and chambers should have in place appropriate E&D arrangements (rC111).

Bar Council's Parental Leave Policy



Bar Council Equality and Diversity Guides

Parental Leave

Why it is important to support parents at the Bar

Maintaining your career and having a family can be a huge challenge, particularly for women, at the Self-Employed Bar. Extended periods without earning can very quickly make it difficult to remain in practice. Often barristers are able to live off deferred income (aged debt) whilst on parental leave and struggle most on their return whilst rebuilding their practice, waiting for payment for work done and paying child care costs.

As a result the Bar loses many talented barristers when they choose to have a family. It is important that members of the Bar and Chambers do all they can to support those who wish to have a family.

Introduction

The Bar is changing and becoming more diverse. More women are choosing to come in to the profession and more are taking up tenancies with chambers. The modern family is changing too. In many families both parents want or need to work full time. Enabling barristers to manage their parental responsibilities whilst at the same time maintaining their place in chambers in order to be able to return to practice should ensure that chambers remains a viable entity with as diverse a pool of members as possible. The Bar Council believes that it is therefore essential for a modern and forward thinking set of chambers to have an up-to-date and clearly drafted parental leave policy (PLP).

The Bar Standards Board sets out in its Equality Rules minimum standards, but this guide aims to encourage barristers to adopt good and better practice wherever possible instead of the bare minimum. Accordingly, this guide aims:

- To provide a guide to chambers as to what a model PLP should look like and the key issues it should cover; and
- To suggest reasons why it is important for chambers collectively to engage with this issue for the benefit of chambers as a whole; and
- To provide a draft model PLP.

Language and Terms

- “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.
- The term “Parent” will be used in this guide to cover those who are applying for leave because they are about to become a parent through pregnancy, adoption or surrogacy.
- The term “Carer” or “Main Carer” will be used to describe an individual, whether male or female who applies under chambers’ PLP for time to care for a dependent.
- A “dependent” for the purposes of this Guide will include an infant, child, young person or an adult with a disability.

What is a Parental Leave Policy (PLP)?

A PLP is a document setting out in clear terms the circumstances under which a tenant may apply for a leave of absence from chambers in order either to have a baby, or to start caring for a child through adoption or surrogacy.

The Bar Standards Board’s Equality Rules¹ require that barristers must take reasonable steps to ensure that their chambers has a parental leave policy covering:

- i. 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;
- ii. the extent to which a member of chambers is or is not required to contribute to chambers’ rent and expenses during parental leave;
- iii. the method of calculation of any waiver, reduction or reimbursement of chambers’ rent and expenses during parental leave;
- iv. 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, or leave following adoption, a minimum of 6 months free of chambers’ rent;
- v. the procedure for dealing with grievances under the policy; and chambers’ commitment to review regularly the effectiveness of the policy.

TIP:

- Consult members of chambers on what they would have liked/would like to see in any PLP.
- Build support for your policy before you take any proposal to your management committee (identify key opinion formers and ensure they support your proposals).

¹ <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

- Consult widely with tenants before finalising your PLP or before drafting amendments to an existing PLP (either in a chambers meeting or via an email ballot). This will afford tenants an opportunity to comment on any proposals and air any concerns. Such a consultation, as well as providing potentially useful information for those who will be engaged in drafting the PLP, may well go some way to ensuring acceptance of the PLP and its ethos throughout chambers. The new PLP or any final amendments to the PLP should be incorporated into chambers' constitution.
- It may assist as part of the consultation to establish how often the policy is used, how long parents have taken off and how many have come back (and whether part-time or full-time). This can help build the financial case for the policy and dispel some of the myths that can exist regarding the cost to chambers.

What should the PLP contain?

As a very minimum, a PLP should contain in clear terms the following:

- A clear description of who can apply under the PLP;
- The right to return following parental leave;
- Who the tenant should apply to for PLP and when;
- How long a tenant can remain on leave;
- Whether the tenant will be entitled to a rent-free period during the term of the PLP or a rebate, depending on chambers' arrangements for calculating rent;
- If the tenant is eligible for a rebate, how this will be calculated;
- Whether the tenant is required to contribute to any other element of chambers' rent and expenses during parental leave and, if so, how that is calculated;
- How chambers will deal with grievances under the policy, and how it will review the effectiveness of the policy.

Sample Rebate Calculation:

The rebate you receive is the amount of management fee you paid in the previous year.

i.e. If you paid £1000+vat management fee (@ 21% + vat on income received) for the whole of 2012 and you are taking leave for the whole of 2013, then you would receive approx. £733.33 (less any days in court/conference), which would be credited on your invoice over 12 months (e.g. $733.33 / 12 = 61.11$ per month).

If you receive any income payments during your leave then these are charged at the normal percentage.

Desirable additional terms of the model PLP:

- Provision for what kind of contact should be maintained between chambers and the tenant during the period of leave, to include ideally a discussion about *Keeping in Touch Days*²;
- Provision for the return of briefs allocated to the tenant before they commenced leave;
- Provision for the forwarding of mail and other notices delivered to the tenant at their chambers address;
- Discussion as to how the tenant's return to work will be managed and notified to the rest of chambers and to professional clients;
- Provision for the tenant to apply under the policy, for a longer extended period of leave, up to a stated maximum, in order to care for their child on a full-time basis, with a return to chambers within that stated period without a formal application procedure;
- How chambers addresses flexible working by tenants outside of formal parental leave.
- The policy should ideally extend to pupil members of chambers and to prospective pupils.

REMINDER:

Your chambers constitution will need to be amended to reflect your PLP.

TIP:

The Bar Council urges barristers to go beyond the BSB's minimum requirements (six months' flat rate rent waiver) and, for example, consider offering barristers undertaking parental leave:

- i. A further or total waiver of any rent contribution they may make as a percentage of their income (before, during and/or for a period after their maternity leave); and/or
- ii. Reduced or deferral of rent payments upon return when rebuilding their practice; and/or
- iii. Some form of rebate as set out above.

TIP:

Develop an economic case for your proposal. How much does it cost to train a member of chambers? i.e. what are the financial benefits of retaining members of chambers. What would it cost to provide additional support to members of chambers taking parental leave? What is the financial impact on individual members of chambers? Having a clear

² <https://www.gov.uk/employee-rights-when-on-leave>

idea of the actual costs associated with your maternity policy will help you to build support and challenge those who may argue that the costs outweigh benefits.

Useful Links:

- <https://www.gov.uk/maternity-allowance>
- The equality officers at the Bar Council can offer advice. Please contact:
Equality@barcouncil.org.uk

January 2015

APPENDIX 1: MODEL PARENTAL LEAVE POLICY

INTRODUCTION

1. This policy applies equally to members of Chambers who are parents or guardians or carers of children, or their partners. It should be read in conjunction with Chambers' Constitution, in particular Parental Leave (*para. ref.*), Support for Members (*para. ref.*), Part-Time & Flexible Working (*para. ref.*). Provision for pupil barristers is also contained within this policy.
2. Chambers will ensure that its staff is familiar with this policy through appropriate training.
3. Any barrister member is entitled to up to twelve months leave of absence from Chambers for the purposes of parental leave. The period of parental leave (but not the total period of exemption) may be extended by the Management Committee, on application.
4. Such leave is to be commenced within twelve months of birth of the child or the child entering a family (either as a result of, or with a view to the adoption of, that child).
5. During the period of any parental leave, a barrister member shall be entitled to a period of up to twelve months waiver of any flat rate element of rent and rebate of full Chambers Expenses on receipts as per (*paras. Ref. of Chambers' Constitution*). The exemption from, or rebate of, full Chambers Expenses under (*paras. Ref. of Chambers' Constitution*) shall be calculated by aggregating the Chambers Expenses paid by the member over the twelve months immediately preceding the commencement of parental leave and attributing 1/260th of that sum for each working day taken off as parental leave. The rebate will be off set against any Chambers Expenses due.
6. Full Chambers Expenses remain payable on fees received during any period of parental leave.

PRE-LEAVE

7. Any barrister member of Chambers intending to take time off from Chambers for the purpose of parental leave must give written notice to the Head of Chambers. Such notice shall be given at least one month prior to the expected date of birth or adoption of a child (or of a child joining the family with a view to adoption) although the Management Committee may exceptionally agree a shorter period of notice. Chambers recognises that there will be circumstances in which it will not be possible to give any notice (for example, a premature birth).
8. Chambers (and in particular Chambers' clerks) will accommodate time-off for ante-natal care and related medical and other appointments.
9. Prior to the commencement of leave, the barrister should meet with the Senior Clerk (or another appropriate clerk) to discuss and agree the following:
 - a. The level and type of contact s/he would like to have during parental leave;
 - b. Any outstanding cases and appropriate cover;
 - c. Any outstanding billing;
 - d. A proposed return date so that solicitors can be kept informed;

- e. Arrangements for the forwarding of post and paying in of cheques;
- f. Whether s/he should suspend her/his practising certificate. It should be borne in mind that while suspension means that the barrister member will be free from CPD obligations for the period of suspension, it also means that s/he will not be able to take on any work during the period of leave.

DURING LEAVE

Contact with Chambers

- 10. In accordance with (*para ref.*) of the Constitution, Chambers through the Senior Clerk (or other appropriate person) will ensure that the barrister member is kept informed of chambers meetings, important chambers decisions, seminars or conferences to be held by chambers relevant to the barrister's practice and, where possible seminars held by outside organisations.
- 11. Where possible and with the agreement of the barrister member concerned, seminar materials should be posted to the barrister.
- 12. Unless otherwise informed by the barrister member, it should be assumed that s/he cannot attend chambers and team meetings and apologies for absence should be reflected in the minutes of those meetings. Minutes should be e-mailed to the barrister member where appropriate.

Management of pigeon hole

- 13. The barrister member's pigeon hole should be monitored by the clerks on a regular basis. Where necessary the contents should be posted to the barrister at least monthly at no cost extra cost to the barrister.
- 14. Any cheques received during parental leave should be paid directly into the barrister member's account unless other arrangements have been agreed.

Preparation for return to practice

- 15. The below measures are aimed at ensuring the member's return to Chambers after leave of absence is properly managed and planned and that steps are taken to ensure work is available for the member upon their return and to assist in every way practical in rebuilding the member's practice. This is the responsibility of both the barrister member and Chambers through the Senior Clerk.

Keeping in Touch (KiT) days

16. KiT days can be used for any work related activity e.g. training or team events. The content, frequency and number of KiT days should be designed to make the return to work following leave easier for the barrister member. They are taken during leave.
17. Prior to the commencement of leave, the barrister member in consultation with the Senior Clerk should agree the number of KiT days to be used subject to a maximum of 10 days. Agreement should also be reached as to the dates of the KiT days, although this should remain flexible.
18. During the period of parental leave, the barrister member should be reminded by the Senior Clerk (or other appropriate clerk) by e-mail of the dates of KiT days. These days should not affect the calculation of chambers parental leave benefit.
19. Where possible the agenda for the KiT days should be planned in advance. There should be at least one meeting with the head of the relevant clerking team which would be similar in content to a practice review. Consideration should be given to arranging a meeting with one or more barrister members of the relevant practice team.

Pre-return to practice meeting

20. At least three months prior to the barrister member's return to practice consideration must be given to the following:
 - a. Identification and appointment of a mentor who will assist the barrister member in settling back into practice and generally,
 - b. The likely working hours, the type, duration and location of any hearings that the barrister member may undertake. This should include any request for flexible or part-time working (*as per paras ref of the Constitution*),
 - c. Any need for the barrister member to attend a "refresher" course in their relevant practice area,
 - d. Review the barrister member's website profile in conjunction with the Senior Clerk (or other appropriate clerk) and Chambers marketing director, and where necessary update the profile,
 - e. Announce the barrister member's return to practice on chambers' website,
 - f. Identify a list of solicitors and write to each of them announcing the barrister member's return to practice.

RETURN FROM LEAVE

21. On return to work each barrister member may work part-time or flexible hours to enable them to manage their family responsibilities as per Chambers' Constitution at (*para ref.*). Chambers recognises that some members may have a greater need for

flexible working than others – for example, where a child has a disability or a medical condition.

22. Management Committee shall grant the request for such approval to the extent that it considers that it is in accordance with the reasonable needs of Chambers taking into account the Chambers Equality Code and the applicable law.
23. The following adjustments should be made so as to accommodate the needs of barrister members returning from parental leave:
 - a. The timing of Chambers meetings, team meetings and practice reviews should take into consideration childcare needs of barristers, and attendance at evening/weekend meetings should not be expected. Chambers should make child care provision for Chambers' meetings or any other meeting which take place over the weekend or in the evening and at which a member's attendance is expected or required,
 - b. Conference call facilities should be made available to barrister members wishing to participate in meetings from home,
 - c. A three-month review should take place, at which the barrister members' career and support needs are identified. Their "mentor", the Senior Clerk (or other appropriate clerk) and where requested, the team convenor, should be present.
24. Barrister members are responsible for ensuring their practising certificates and insurance are current upon return.

PUPILS

Prospective pupils

25. Upon application, Chambers may defer the commencement of pupillage of prospective pupils who become pregnant prior the commencement of pupillage for a period of up to 12 months.
26. Prospective pupils with existing childcare commitments may discuss with the Pupillage Committee how their working hours during pupillage can accommodate such commitments and should be advised of their entitlement to flexible working hours in accordance with this policy.

Current pupils

27. This part of the policy applies to all first and second six pupils who are parents or guardians or carers of children, or their partners. *Paras. Ref.* below (flexible working hours) also applies to third six pupils and squatters.

28. Pupils who become pregnant during pupillage may defer completion of the remainder of pupillage, subject to the requirements of Part V of the Bar Training Regulations.³
29. In the event that an exemption from the Bar Training Regulations is required, the pupil's supervisor shall be responsible for obtaining written permission from the Bar Standards Board.
30. Such a deferral shall not affect the overall pupillage award which shall be paid monthly during the period in which the pupil is undertaking pupillage. In the event of a rise in the pupillage award following deferral and prior to commencement of the deferred period the pupil shall be paid at the increased rate during the deferred period.
31. In the event of deferral and during the pupil's 'break' period, the pupil's supervisor shall be their point of contact with Chambers.
32. Chambers shall accommodate pupils' requests for flexible working hours in order to allow for childcare commitments. Such working hours should be discussed with the pupil's supervisor in order to ensure that the pupil is able to complete the work that is required of him or her.
33. The need to work flexible hours for this reason should not, as far as possible, affect the allocation of court work during the practising period of pupillage. Pupils should however be aware of the demands of the court schedule and the necessity for evening and last-minute briefs and should arrange childcare with this in mind wherever possible.
34. Pupils should be assured that any need to work flexible hours for reasons of childcare will not in any way affect their prospects of being recruited as a tenant pursuant to the Chambers' policy on recruitment of tenants from pupils.

REVIEW OF THIS POLICY

35. The Chambers' Equality and Diversity Officer will review annually the effectiveness of this policy, and where appropriate will make proposals for change to the Management Committee.

Helpful Information

- Bar Council Checklists and other links
- Information about 'keeping in touch days' can be accessed via the Directgov website
- Information regarding maternity allowance can be found at the Directgov website.

³ i.e. that except with the written permission of the Bar Standards Board: (i) the non-practising period of pupillage must be undertaken for a continuous period of six months (regulation 31); and (ii) the practising period of pupillage must commence within 12 months of completion of the non-practising period and be completed within an overall period of 9 months (regulation 32).

Discrimination in the BSB's Handbook

The Core anti-discrimination duty is set out as CD8 of the BSB handbook and prohibits discrimination, victimisation or harassment by a barrister directly or indirectly in relation to:

- any other person including a lay or professional client, a judge, another barrister, a pupil, a clerk, or student member of an Inn of Court
- on the following grounds: race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief or pregnancy or maternity.

This is a Fundamental Principle drafted to accord with the Equality Act 2010 and applies to all practising barristers in all aspects of their professional lives.

To the extent that discrimination in the provision of services is not unlawful the BSB Handbook's Code of Conduct makes such discrimination a matter of professional misconduct.

Within the BSB Equality rules a number impact on support available to you (your EDO), experience pre and post parental leave (allocation of work and flexible working), and parental leave policies themselves:

Equality and Diversity Officer. Rule rC110 (3) (a) of the BSB Handbook requires that Chambers appoint at least one Equality and Diversity Officer. The "BSB Handbook: Supporting Information" sets out the officer's recommended responsibilities.

Equality Monitoring. rC110(3)(f) of the BSB Handbook requires monitoring of work allocated and action taken to remove or reduce disadvantage if needed. Rule rC110 (3)(i) requires that the affairs of 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. Unassigned work includes unnamed work received into chambers and the choice of juniors by leaders. The Bar Standards Board "Supporting Information" recommends chambers consider keeping a database of work allocated to pupils, junior tenants and those returning from parental leave. The patterns that need to be considered are earnings, quantity of work and sources of work.

Harassment. It is a requirement of the BSB Handbook rC110 (3)(j) that chambers have a written anti-harassment policy indicating that chambers is committed to providing a work environment in which all members, pupils, staff, clients and the public are treated with dignity and respect and setting out informal and formal procedures for dealing with complaints. A model harassment policy is provided in the "BSB Handbook: Supporting Information".

Parental leave and Flexible Working. Rules rC110(3)(k) and rC110(3)(l) concern Parental Leave and Flexible Working. There must be a written policy which covers the right of a member to return to chambers at least one year after parental or adoption leave, the extent to which a member must contribute to chambers' rent and expenses during parental leave, the procedure for dealing with grievances and complaints under the policy and a commitment to

keep the policy under review. Where rent is paid on a flat rate basis, chambers must offer its members taking a period of parental leave a minimum of 6 months free of chambers rent. A model policy is provided in the “BSB Handbook: Supporting Information”.

Chambers are required by the BSB Handbook rC110(3)(l) to have a flexible working policy which covers the right of a member of chambers to take a carer break, to work part-time, to work flexible hours or to work from home. A model policy is provided in the “BSB Handbook: Supporting Information”.

BSB Handbook: Equality and Diversity Regulations

The screenshot shows a web browser window displaying the BSB Handbook website. The address bar shows the URL: <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-i>. The page title is "Equality and Diversity Rules...".

The website header includes the BSB logo (BAR STANDARDS BOARD) and the tagline "REGULATING BARRISTERS". Navigation links include "Contact Us", "Site Map", "The Bar Council", and "Barrister Connect". A search bar is present with the text "Enter Search" and a "GO" button.

The main navigation menu includes: "About Bar Standards Board", "Regulatory requirements", "Qualifying as a barrister", "Complaints and professional conduct", and "Media Centre".

The page content is dated "01 September 2014" and includes a breadcrumb trail: "HOME > ABOUT BAR STANDARDS BOARD > EQUALITY AND DIVERSITY > EQUALITY AND DIVERSITY RULES OF THE BSB HANDBOOK".

What we do

How we do it

Equality and Diversity

- Equality and Diversity Rules of the BSB Handbook
- BSB Equality Strategy 2013 - 2016
- Publication of Information - Equality Act 2010
- Our Equality Objectives
- Monitoring Implementation of the Equality Rules
- Equality Analyses
- Equality and Diversity Training

Consultations

Bar Standards Board jobs

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Equality and Diversity Rules of the BSB Handbook

The equality rules of the BSB Handbook came into force on 1 September 2012. They apply to self-employed barristers in multi-tenant chambers and include requirements to:

- Produce an equality policy and action plan
- Appoint an equality and diversity officer and appoint a diversity data officer
- Ensure chambers' selection panels are trained in fair recruitment
- Conduct diversity monitoring and analyse data
- Produce anti-harassment, flexible working, parental leave and reasonable adjustments policies.

 Click on the icon to view the rules as an extract of the Handbook.

Supporting Materials

The BSB has produced the following support products designed to assist chambers in implementing all the equality rules. Please click on the relevant links on the right.

The products are:

Resources

- Supporting Information on the equality rules of the BSB Handbook
- Webinar on the equality rules
- CPDcast Podcast on the equality rules
- Making reasonable adjustments in chambers (PowerPoint)
- Diversity data collection and publication in chambers (PowerPoint)
- Dealing with harassment in chambers (PowerPoint)
- Work allocation monitoring using LEX
- Work allocation monitoring using Meridian and Inquisitor Law
- FAQs on the equality rules

Notifying the BSB of chambers' DDO

- Telephone 020 7611 1321 or notify us by email

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 return to *chambers* after a specified period (which must be at least one year) of parental or adoption leave;
 - ii. the extent to which a member of *chambers* is or is not required to contribute to *chambers' rent* and expenses during *parental leave*;
 - iii. the method of calculation of any waiver, reduction or reimbursement of *chambers' rent* and expenses during *parental leave*;
 - iv. 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*, or leave following adoption, a minimum of 6 months free of *chambers' rent*;
 - v. the procedure for dealing with grievances under the policy;
 - vi. *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 (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 Rule C110.3.k.iv sets out the minimum requirements which must be included in a parental and adoption leave policy if any element of rent is paid on a flat rate. If rent is paid on any other basis, then the policy should be drafted so as not to put any *self-employed barrister* in a worse position than he would have been in if any element of the rent were paid on a flat rate.

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.

The “BSB Handbook: Supporting Information” with more detail on parental leave provisions can be found at:

https://www.barstandardsboard.org.uk/media/1596730/bsb_equality_rules_handbook_june_2014.pdf

Equality and Diversity at the Bar Council

The Bar Council aims to widen access to the Bar, create a diverse and inclusive profession and to promote good practice in the management of chambers and the delivery of legal services.

Bar Council's Equality, Diversity and Social Mobility Committee is responsible for developing and taking forward the Bar Council's equality and diversity policy. The Head of Equality and Diversity and the Equality & Diversity Policy Analyst support the work of the Committee, provide equality and diversity advice and guidance to members of the profession, those seeking to enter the profession and staff of chambers. The Bar Council also offers a programme of diversity events and training.

The Bar Standards Board has its own Equality and Diversity Committee responsible for ensuring the BSB's functions have given due regard to promoting equality and diversity and championing equality and diversity issues with the Board, its committees and within the BSB generally. The BSB's Equality and Diversity Policy Officer supports the work of this Committee.

Equality and Diversity Helpline (T: 0207 611 1310)

Please contact the Head of Equality and Diversity at the Bar Council, Sam Mercer, for the following:

- confidential advice to members of the profession, staff and members of chambers, employed barristers, pupils and Bar students about equality and diversity, disability, maternity leave or harassment queries or concerns;
- implementing the BSB's Equality Code, including the maternity and parental leave guidelines in chambers;
- making reasonable adjustments and making chambers and services accessible to people with disabilities;
- Diversity monitoring.

Panel of Disability Advisers

Members of the Disability Panel are barristers who practise with a disability or are specialists in disability law. Members will offer practical advice to disabled students considering a career at the Bar, to practitioners who have developed a disability and wish to remain in practice and to chambers on reasonable adjustments for service users, staff and members of chambers. If you wish to make contact with a member of the panel, please contact Sam Mercer SMercer@barcouncil.org.uk

Equality and Diversity Information on the Bar Council's Website

Guides can be found at <http://www.barcouncil.org.uk/practice-ethics/professional-practice-and-ethics/equality-and-diversity-guidance/>

Diversity Data

Diversity data and research on the profession can be found on the Bar Council's website under Statistics about Barristers and on the BSB's website under Statistics on the Bar.

Bar Council Training

1. Introduction to Equality and Diversity Training

The Introduction to Equality & Diversity Training (Toolkit) was developed by members of the Bar Council Equality and Diversity Committee as a practical aid to chambers to raise diversity awareness. The course is based on a series of worked case studies drawn from the experience of applying equality and diversity policies in chambers and includes a summary of the legal and regulatory duties. Courses are run regularly at the Bar Council, some of the Inns and Circuits. They are designed for barristers, chambers' Equality and Diversity Officers, practice managers and clerks. They carry 1½ CPD hours. To book one of these courses please contact Bianca Lee.

For information about events and training please contact Emma Pateman and check the Bar Council's website <http://www.barcouncil.org.uk/for-the-bar/conferences,-training-and-other-events/>

2. Fair Recruitment & Selection Training

Fair Recruitment training is available to help members of chambers to meet the BSB's Handbook rules on fair recruitment rC110 (3) (c) and (d).

The Bar Council has published the "Fair Recruitment Guide" to help chambers meet these Code rules and a diversity recruitment monitoring toolkit.

See <http://www.barcouncil.org.uk/for-the-bar/professional-practice-and-ethics/equality-and-diversity-guidance/fair-recruitment-guide/>

Member Services offer a CPD accredited 'Fair Recruitment and Selection' course. The course covers the principles of fair selection, avoiding bias in selection, developing and applying selection criteria consistently through the selection process, shortlisting techniques, how to develop reliable and valid work sample tests, competency based interview techniques, evaluation and making selection decisions.

To book a place see:

<http://www.barcouncil.org.uk/for-the-bar/member-services-training-courses/fair-recruitment-and-selection-training/>.

3. *Advanced Equality & Diversity Training*

This training has been developed specifically for those with a (i) management role in chambers; and (ii) with responsibility for implementing the BSB's Equality & Diversity rules. It also supports E&D in chambers more generally.

For information about this training, please email trainingandevents@BarCouncil.org.uk

Bar Council Contacts

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