

10. EQUAL OPPORTUNITIES

1 Introduction

1.1 This document sets out the Firm's policy on equality and equal opportunities. This policy does not form part of your contract of employment but is a policy statement describing the way in which equal opportunities issues are dealt with in the Firm.

1.2 The Firm has introduced this equal opportunities policy as a commitment to make full use of the talents and resource of all its employees and to provide a healthy environment which will encourage good and productive working operations within the organisation. This document describes how the policy is to be applied throughout the Firm.

1.3 The Firm is particularly concerned that equality of opportunity is maintained in the following areas:

- (a) recruitment and selection;
- (b) promotion, appraisal, transfer and training;
- (c) terms of employment, benefits, facilities and services;

(d) grievance and disciplinary procedures; and

(e) dismissals, resignations and redundancies.

1.4 The Firm will ensure that all managers and supervisors with responsibility for any of the areas of particular concern listed in paragraph 1.3 above are provided with the appropriate equality and equal opportunities training where necessary, which may be updated as required. Other staff may also be required to attend equal opportunities training. Attendance at training will be compulsory if you are notified that you should attend a course.

1.5 This policy does not form part of any employee's contract of employment. We may amend it at any time and decide to follow a different procedure where we consider it appropriate.

2 Statement of Principle

2.1 An equality policy statement will be displayed on the Firm intranet and website. A copy of this policy is available from the Practice Manager and on the Firm intranet.

2.2 The Firm's statement of principle on equality and equal opportunities is:

"The Firm is committed to a policy of treating all its employees, workers and job applicants equally. No employee or potential employee will receive less favourable treatment because of any 'protected characteristic', namely:

- (a) age (or perceived age)
- (b) disability (past or present)
- (c) gender reassignment
- (d) marriage or civil partnership status
- (e) race, colour, nationality, ethnic or national origins
- (f) religion or belief

- (g) sex
- (h) sexual orientation
- (i) trade union membership (or non-membership)
- (j) part-time or fixed term status
- (k) No employee or potential employee will be disadvantaged by any conditions of employment that cannot be justified as necessary on operational grounds.
- (l) The Firm aims to encourage, value and manage diversity and is committed to equality for its entire staff. The Firm wishes to attain a workforce which is representative of the communities from which it is drawn.
- (m) These principles of equality of opportunity and non-discrimination also apply to the manner in which our staff treat clients, our business partners and visitors.

2.3 Employees are expected to work with the Firm towards these aims. In certain circumstances, an employee can be

personally liable for discrimination against a fellow employee or a job applicant.

- 2.4 Other Firm policies, such as those dealing with harassment and bullying, maternity, paternity, adoption, emergency time off for dependants and parental leave are set out within this Handbook.

3 Equality Principles

- 3.1 There should be no discrimination, whether direct or indirect, because of any of the protected characteristics set out in the Firm's statement of principle on equal opportunities contained in paragraph 2.2 above. The types of discrimination that are prohibited are explained at paragraph 3.2 below.

- 3.2 Discrimination may occur in the following forms:

- (a) **direct discrimination** – this is treating someone less favourably because of a protected characteristic. An example of this is paying someone less because of their sex or because they belong to a particular racial group.

'Because of' is very wide and includes less favourable treatment based on a perception of another person, for example that the person is gay, or is disabled, whether or not this perception is correct and even if the perpetrator knows that their perception is, in fact, wrong. It also includes less favourable treatment because someone is associated with another person who has a protected characteristic.

- (b) **indirect discrimination** - this is treating people in the same way but in a way which adversely affects those with a protected characteristic. An example of this is telling all employees that they have to work late at night – although applied to everyone, it will adversely affect those employees with childcare responsibilities and these tend to be women.
- (c) **victimisation** – this is treating someone less favourably because they have asserted their right not to be discriminated against because of a protected characteristic. An example of this would be an employee claiming that they had been discriminated on the grounds of their disability and then their manager deciding when they left not to give them a

reference because they had claimed disability discrimination.

- (d) **harassment** – this is unwanted conduct, related to a protected characteristic, which has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for someone or violating their dignity. Harassment may also be of a sexual nature or may occur because someone has harassed the victim and the victim either rejects or submits to it and, because of that rejection or submission, that person treats the victim less favourably. More information on what can constitute harassment is set out in the Firm’s harassment and bullying policy.

3.3 The Firm will appoint, train, develop, reward and promote on the basis of merit and ability.

3.4 All employees have personal responsibility for the practical application of the Firm’s equality policy, which extends to the

treatment of job applicants, employees (including former employees), clients and visitors.

3.5 The principles set out in this policy apply:

a) in the workplace

b) outside the workplace in a work-related context, such as on business trips, customer or supplier events or work-related social events.

3.6 Special responsibility for the practical application of the Firm's equality policy falls upon managers and Partners involved in the recruitment, selection, appraisal, promotion and training of employees and the way their terms of employment are fixed.

3.7 The Firm's Grievance Procedure is available to any employee who believes that they may have been unfairly discriminated against. Please contact Practice Manager for a copy of the Grievance Procedure. The harassment complaints procedure

set out in the Firm's harassment and bullying policy is also available to any employee who believes that they may have been harassed or bullied. Employees will not be victimised in any way for making such a complaint in good faith. Complaints of this nature will be dealt with seriously, in confidence and as soon as possible.

- 3.8 Disciplinary action will be taken against any employee who is found to have committed an act of unlawful discrimination. Serious breaches of this policy and serious incidents of harassment and bullying will be treated as gross misconduct. Unwarranted allegations that are not made in good faith may also be considered as a disciplinary matter.

- 3.9 In the case of any doubt or concern about the application of this policy in any particular instance or situation, please consult the Practice Manager as soon as possible.

- 3.10 The Firm will keep its policy, procedures and practices on equality and equal opportunities under review.

4 Recruitment and selection

4.1 The following principles should apply whenever recruitment or selection for positions takes place, whether externally or internally:

- (a) individuals will be assessed according to their personal capability to carry out a given job
- (b) assumptions that only certain types of person will be able to perform certain types of work must not be made
- (c) any qualifications or requirements applied to a job which have or may have the effect of inhibiting applications from certain types of person should only be retained if they can be justified in terms of the job to be done
- (d) any age limits applied to a job should only be retained if they can be objectively justified in terms of the job to be done – in most cases this will not be the case and managers should consult the Staff Partner if considering an age limit for a particular post

- (e) the use of years of experience as a criteria for a particular role will need to be objectively justified
- (f) recruitment solely or primarily by word of mouth should be avoided as its effect is or may be to prevent certain types of person from applying
- (g) selection tests should be specifically related to job requirements and should measure the person's actual or inherent ability to do or train for the work
- (h) selection tests should be reviewed regularly to ensure they remain relevant and free from any unjustifiable bias, either in content or in scoring mechanism
- (i) applications from different types of person should be processed in the same way and the same questions asked at interview
- (j) written records of interviews and reasons for appointment and non-appointment should be kept
- (k) questions at interview should relate to the requirements of the job

- (l) where any provision, criterion or practice for recruitment and selection puts disabled people at a substantial disadvantage due to a reason connected with their disability, reasonable adjustments should be made to eliminate or, if that is not reasonably practicable, reduce the disadvantage. This could, for example, be making different interview arrangements for an applicant with mobility problems or arranging for facilities for applicants with sight or hearing impairments
- (m) decisions regarding the method of recruitment or selection or who is recruited or selected should only be made by a person who has read and understood this policy.

5 Promotion, Transfer and Training

- 5.1 The following principles should apply to appointments for promotion, transfer and training:

- (a) assessment criteria and appraisal schemes should be carefully examined to ensure that they are not discriminatory, whether directly or indirectly
- (b) assessment criteria and appraisal schemes should be monitored on a regular basis and, where such criteria or schemes result in predominantly one group of workers gaining access to promotion, transfer or training or being awarded a particular appraisal grade, they should be checked to make sure this is not due to any hidden or indirect discrimination
- (c) promotion and career development patterns will be regularly monitored to ensure that access to promotion, training and career development opportunities is not denied to particular groups or types of workers
- (d) traditional qualifications and requirements for promotion, transfer and training, such as length of service, years of experience or age may discriminate against certain workers and will need to be objectively justified by reference to the job requirements

(e) policies and practices regarding selection for training, day release and personal development should not normally result in an imbalance in training between groups of workers

(f) where any provision, criterion or practice relating to promotion, appraisal, transfer or training puts disabled workers at a substantial disadvantage for a reason connected with their disability, reasonable adjustments will be made to eliminate or, if that is not reasonably practicable, reduce the disadvantage. For example, this could be making training available for a disabled worker in a different way, in a different location or at a different time.

(g) **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. Maternity rights available to

partners shall be no less favourable than those required by legislation for employees.

6. Terms of Employment, Benefits, Facilities and Services

- 1) The following principles apply to terms of employment, benefits, facilities and services:
 - (a) the terms of employment, benefits, facilities and services available to workers should be reviewed regularly to ensure that they are provided in a way which is free from unlawful discrimination
 - (b) part-time workers should receive pay, benefits, facilities and services on a pro rata basis to their full-time comparator unless otherwise objectively justified – managers who are responsible for part-time workers should, in particular, take advice from the Staff Partner when assessing pay and benefits for part-time workers
 - (c) where any provision, criterion or practice relating to terms of employment, benefits, facilities and services puts disabled workers at a substantial disadvantage due to a reason connected with their disability, reasonable adjustments will be made to eliminate or, if that is not reasonably practicable, reduce the disadvantage. Managers responsible for disabled workers should, in particular, take advice from the

Staff Partner when assessing pay and benefits for disabled workers

- (d) pay and bonus criteria, policies and practices should be carefully examined and regularly monitored, and if it appears that any group of workers are disadvantaged by them they will be checked to make sure that this is not due to any hidden or indirect discrimination.

7. Barristers and Third Parties

A. 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 by the client that only a barrister who is not disabled or who is of a particular gender; marital 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 in so far as they are given on discriminatory grounds. Should the client refuse to modify such instructions, the firm will cease to act.

B 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 those within 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.

C Clients

The 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 Equality Act) and the Solicitors Anti-Discrimination Rule 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; responsibilities as carers; disability; religion or belief; sexual orientation or other relevant factors.

8 Grievances, Disciplinary Procedures, Dismissals and Redundancies

- 8.1 Workers who, in good faith, bring a grievance (or assist another to do so) either under this policy or otherwise in relation to an equality or equal opportunities matter will not be disciplined, dismissed or otherwise suffer any adverse treatment for having done so.
- 8.2 No member of a particular group of workers will be disciplined or dismissed for performance or behaviour which would be overlooked or condoned in another group, unless there is genuine and lawful justification for different treatment.
- 8.3 Redundancy criteria and procedures will be carefully examined to ensure that they are not applied and do not operate in an unlawfully discriminatory manner.
- 8.4 The provision of any voluntary redundancy benefits will be equally available to all workers unless there is a genuine and lawful justification for doing otherwise.

9 Disability

- 9.1 It is the Firm's policy that disabled people, including job applicants and employees, should be able to participate in all of the Firm's activities fully, on an equal basis with people who are not disabled.
- 9.2 Due to the wide variety of potential disabilities and the likelihood of a disability affecting different people in different ways, it would be inappropriate to prescribe rigid rules on how issues concerning disabled people should be dealt with. What is essential, however, is that all managers and Partners take all reasonably practical steps to ensure that disabled people are not less favourably treated or disadvantaged by comparison to people who are not disabled in relation to their work, working environment, or by any provision, criterion or practice used by the Firm. Managers and supervisors need to be aware in particular that an employee on long-term sick leave or with intermittent sickness absence may be disabled.
- 9.3 The Firm is particularly concerned that disabled workers are treated equally in the following areas:

- (a) recruitment and selection
- (b) promotion, transfer and training
- (c) terms of employment, benefits, facilities and services
- (d) dismissals, resignations and redundancies.

9.4 For the purpose of this policy, disabilities are either physical or mental impairments that have a substantial and long term effect upon a person's ability to carry out normal day-to-day activities. Particular conditions such as HIV and some forms of cancer are covered from the point of diagnosis and do not have to already be long term – please contact the Practice Manager for further information about what is covered by normal day-to-day activities and the status of particular illnesses.

9.5 Some disabilities are immediately obvious, for example use of a wheelchair, while other disabilities may not be apparent at all, for example HIV infection. Certain conditions are not considered to be disabilities, for example poor eyesight that is corrected simply by wearing prescription spectacles, or

addiction to alcohol or other substances. If you would like further information about whether a particular condition is a disability you should contact the Practice Manager.

- 9.6 The general equality and equal opportunity principles set out earlier in this policy will apply in relation to disabled people whether they currently have a disability or have had a disability in the past.
- 9.7 The Firm will take all reasonably practicable steps to ensure that disabled people are able to participate in its business and activities on an equal basis with people who are not disabled.
- 9.8 The Firm will not, for a reason relating to a person's disability, treat disabled people less favourably than it treats, or would treat, others to whom the same reason does not or would not apply, unless that treatment would be justified.
- 9.9 If any provision, criterion or practice used by or on behalf of the Firm, or any physical feature of premises occupied by the Firm, puts disabled people at a substantial disadvantage compared to people who are not disabled, the Firm will take

such reasonably practicable steps as it can to prevent this disadvantage. This is known as the duty to make reasonable adjustments.

9.10 The following general steps should always be considered where issues concerning disabilities arise or may arise:

- (a) Be flexible. There may be many different ways to avoid discrimination or to minimise the effects of discrimination. A small adjustment may be all an employee needs.
- (b) Consider any performance or attendance problems in the context of the person's disability and its effect on their ability to meet performance and attendance targets.
- (c) Do not make assumptions. Whenever possible talk to the disabled person to find out how their disability affects them and what steps they think might help.
- (d) Do not discipline or dismiss a disabled employee for performance or attendance-based reasons without first establishing whether the employee's

performance or attendance is affected by the disability and that appropriate adjustments to accommodate the disability have been made.

- (e) Seek expert advice. Disability issues can be complex and you may need expert medical advice about a person's disability, or expert technical advice about adjustments to technology or premises that might help the disabled person.
- (f) Think ahead. Try to anticipate the effects that practices, policies and procedures may have on disabled people, even if there are no disabled employees at the time, to prevent problems occurring in the future.