



Equality and Diversity

Expectations Statement for the Bar

Reviewed 2012

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Foreword

We are pleased to introduce the updated version of the CPS Equality and Diversity Expectations Statement for the Bar.

The Statement has been refreshed in the context of new equalities legislation (Equality Act 2010), the new CPS Advocate Panel process for appointing external advocates and learning from the benchmarking period of the first statement which ran from 2007 to 2011. The expectations are also closely aligned to the proposed Bar Standards Board's Equality and Diversity Conduct and Practising Rules (EDCPR) which are intended to replace the Bar Standards Board Equality and Diversity Code. No new expectations have been devised, however some expectations have been revised to reflect the above legislative and practice changes.

The aim of the Equality and Diversity Expectations Statement remains to provide a clear statement of expectations for sets of Chambers whose members prosecute or seek to prosecute on behalf of the CPS.

We look to all Chambers, whose members work on behalf of or are seeking to work on behalf of the CPS, to implement the Expectations Statement. Members of the CPS Advocate Panel should take all necessary steps to support their Chambers in meeting the expectations. We have worked to align the expectations to the proposed EDCPR as closely as possible so that we can reduce the burden of the monitoring process for Chambers by moving to a single process that meets the requirements of the Bar Standards Board (BSB) and the CPS in future.

We are confident that this Statement will help realise the shared vision of a Bar which better reflects the communities it serves and where equality and diversity practice is of a consistently high standard.



A handwritten signature of Keir Starmer in black ink on a white background.

Keir Starmer QC
Director of Public Prosecutions



A handwritten signature of Michael Todd in black ink on a white background.

Michael Todd QC
Chairman, Bar Council

1. Context

- 1.1** The CPS is committed to advancing the principles of equality and diversity in the way that we treat our people and perform legal duties as a prosecuting authority.

The CPS deals with the prosecution of all cases investigated by the police, Serious Organised Crime Agency, UK Borders Agency, Department for Environment, Food and Rural Affairs, and HM Revenue & Customs, as well as serious crime, terrorism, fraud and other challenging cases that require specialist experience. The CPS secures a range of external legal services from the Bar each year to assist with the prosecution of these cases.

The first version of the Bar Expectations Statement issued in 2007 set out the CPS' expectations for Chambers undertaking or wishing to undertake work on behalf of the CPS in respect of the equality strands covered by the equality legislation in force at that time, namely gender, race and disability.

- 1.2** The Equality Act 2010 (EA10) now imposes a general duty on public bodies including the CPS to promote equality across all protected characteristic groups (age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation) in the way that they perform all of their functions.
- 1.3** This revision of the Expectations Statement extends the current expectations to all of the protected characteristics covered by the EA10.
- 1.4** In 2011 we also changed the way that we select advocates to undertake CPS work through the introduction of the CPS Advocate

Panels process. The appointment of advocates to the panel is made on the basis of individual competence. Regardless of this change, the important role played by Chambers in ensuring best practice and promoting equality and diversity however remains. It is for this reason that the CPS requires those instructed to take all necessary steps to support their Chambers in meeting the required standards set out in this Expectations Statement. Chambers who comply with the standards will also be supporting members in achieving the required level of competence regarding equality and diversity.

- 1.5** We are working with colleagues at the Bar to develop a simplified and more streamlined process for monitoring compliance with the expectations. Monitoring arrangements will be issued separately in due course.

2. Purpose

This statement will:

- provide for the Bar a clear concise statement of expectations on equality and diversity when seeking to work and when working for the CPS
- ensure that the CPS can continue to meet our legal obligations to promote equality when Chambers' members prosecute on our behalf.

3. Equality and diversity expectations

The following expectations are the elements of a framework to address equality and diversity which the CPS expects to see in place and actively implemented in Chambers whose members prosecute or seek to prosecute on behalf of the CPS.

3.1 Expectation 1 - Equality and diversity policy statement and action plan

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Have a written policy statement of its commitments to equality and diversity. This policy statement should specifically address recruitment of staff, pupils and members; retention and career development; training; equal access to work and opportunities within Chambers; reasonable adjustments; maternity, paternity and parental leave; flexible working; complaint handling for discrimination and harassment. The policy should identify the outcomes the Chambers is seeking to achieve and the roles and responsibilities in relation to the policy.
- Have a timetabled action plan or set of actions in a wider Chambers business plan to implement this policy.
- Have a designated equality and diversity officer.
- Implement the policy and action plan.

3.2 Expectation 2 - Equality monitoring in employment

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Gather monitoring information across all protected characteristics for applicants and appointments to staff, pupillage and membership.
- Gather monitoring information from all existing staff, pupils and members in Chambers.
- Be able to make available the results of this monitoring on request.

3.3 Expectation 3 - Address under-representation in Chambers

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Analyse monitoring data at least annually with respect to recruitment, retention, progression and complaints.
- Evaluate its monitoring results against relevant benchmarks, including Bar Professional Training Course graduate data and pupillage diversity data.
- Take corrective action where there is significant under representation of any particular group compared to their representation in the potential applicant pool.
- Take corrective action where there are significant differences between those applying and those appointed as pupils and as members.

- Focus recruitment efforts on addressing under-representation.
- Take steps, including the setting of measurable objectives where necessary, to help secure a more representative Chambers (including staff, members and pupils).
- Be able to report progress in addressing under representation.

3.4 Expectation 4 - Positive action

In some circumstances it will be appropriate for Chambers to take positive action. Where Chambers reasonably believes that persons with a shared protected characteristic suffer a disadvantage, have particular needs or are disproportionately under-represented, that Chambers may take any step to encourage or enable that group to overcome or minimise the disadvantage (s.158 EA10).

Positive action refers to measures that Chambers may lawfully take (s.20 EA10), including but not limited to targeted training, work placements/experience, and/or mini-pupillages.

In these circumstances the CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Actively consider and put in place positive action programmes where the evidence warrants such programmes; evaluate the impact of any positive action programme and cease the programme once the results have been achieved.
- Explain the reasoning and benefits of positive action to all staff, members, pupils and potential applicants.
- Take other appropriate outreach steps to under-represented groups.

There is no prohibition in legislation against positive measures in favour of disabled people. Legislation anticipates that such measures, including reasonable adjustments will be taken.

Chambers are expected to:

- Encourage disabled people to apply to Chambers.
- Review their recruitment and marketing literature to include appropriate references to disability access.
- Identify Chambers' level of accessibility to disabled people.

3.5 Expectation 5 - Training on equality and diversity

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Ensure all members, staff and pupils receive basic training on equality and diversity which covers both legal obligations in relation to non-discrimination and best practice in employment and service delivery.
- Ensure equality and diversity training covers all protected characteristic groups.
- Integrate equality and diversity issues into other training provided for Chambers staff, members and pupils, for example in recruitment training.
- Keep training under review and in line with current developments.

3.6 Expectation 6 - Familiarisation with key CPS policies

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to ensure that those members are:

- Familiar with and committed to the consistent implementation of CPS prosecution policies when working on behalf of the CPS, in particular CPS responsibilities under the Code of Practice for Victims of Crime; CPS Core Quality Standards; CPS Statement of Ethical Principles and CPS hate crime policies in the areas of violence against women (including domestic violence, rape and sexual assault); homophobic and transphobic crime; racist crime; religious crime; crimes against older people and disability hate crime.

3.7 Expectation 7 - Equal access to and fair allocation of work within Chambers

The CPS instructs members of Chambers through the CPS Advocate Panel scheme which identifies advocates to prosecute at the relevant level (1-4) dependent on skills and expertise. Panel selection is monitored in respect of equalities.

CPS recognises that Chambers' clerks play a crucial role in the opportunity for advocates on the panel or reserve lists to undertake prosecution work and expects that when work is allocated or returned to clerks they will follow the same fair allocation procedure based on skills, experience and merit.

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Provide appropriate guidance for clerks on the fair allocation of work including allocation of returns.

- Ensure equal access to the range of work available.
- Ensure a fair allocation of work within Chambers.
- Monitor allocation of returns and unnamed work coming into Chambers across all protected characteristics.
- Monitor pupils' and junior tenants' access to work across all protected characteristics.
- Address any significant differences in work access and work allocation.
- Reallocate any work on the basis of skills and experience ensuring there is no discrimination in work reallocation.

3.8 Expectation 8 - Reasonable adjustments to promote disability equality

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Make staff and members aware of the legal duty for reasonable adjustments for disabled service users where a practice, policy or procedure, or physical feature of the premises, make it impossible or unreasonably difficult for a disabled person to make use of a service.
- Advertise their commitment to providing reasonable adjustments in relation to the recruitment of members, staff and pupils and the provision of legal service.
- Appropriately deal with reasonable adjustment requests as required by the legislation.

3.9 Expectation 9 - Parental leave and flexible working policy

The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Have a written policy on parental leave (maternity, paternity and adoption leave) for members which contains particulars of:
 - the extent of period of leave offered free of rent and Chambers expenses; and
 - the member's right to return to Chambers after a specified period of leave.

- Have a written policy permitting members of Chambers to take career breaks or work flexibly.

3.10 Expectation 10 - Complaint handling

This reflects the specific provisions for the Bar in s.47 (1) EA10. The CPS expects Chambers whose members prosecute or seek to prosecute on behalf of the CPS to:

- Have a complaints policy accessible to pupils, staff, members and the public, which includes harassment and sets out standards for acceptable and unacceptable behaviour and procedures for dealing with complaints of such behaviour.

- Have a procedure for resolving complaints informally and promptly.

- Have a formal procedure for investigating and resolving formal complaints.

- Have a clear policy statement which treats breaches of equality and diversity policies and procedures as a disciplinary issue.

4. Appendix

Sources of additional information

CPS policy statements, Core Quality Standards and Statement on Ethical Principles www.cps.gov.uk

Equality Act 2010 www.equalities.gov.uk

Legal Services Board – 'Increasing diversity and social mobility in the legal workforce' <http://www.legalservicesboard.org.uk/>

Bar Standards Board

Equality and Diversity Adviser: SLoutfi@bsb.org.uk

Bar Council

Equality and Diversity Adviser

Pamela Bhalla: PBhalla@BarCouncil.org.uk

Information on diversity training courses and further guidance:
acampbell@barcouncil.org.uk

Equality and diversity confidential helpline: 020 7611 1310 open to practising barristers, pupils and law students.

Equality and Diversity Unit

Further copies of this report are available to download in Adobe Acrobat PDF on the CPS website

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Reviewed 2012



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