

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## **Anti-Racist Statement**

**November 2020**

If you would like a version of this publication in hard copy, or in an alternative format, please contact the Equality and Access to Justice (E&AJ) Team by telephone on 020 7611 1305 or:  
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## **BSB Anti-Racist Statement**

The BSB has a statutory duty to promote diversity at the Bar and in our Code of Conduct for the Bar one of the core duties upon barristers is not to discriminate unlawfully against any person.

Throughout history, law and regulation have been shaped by campaigns against injustice. In the UK, this includes the Race Relations (Amendment) Act 2000, brought about by community campaigning which led to the Macpherson Inquiry, after the racist murder of Stephen Lawrence. The Black Lives Matter movement in the US and UK has impressed on us all the need for cultural and structural change.

We recognise the role all organisations can play in challenging racism and delivering anti-racist practice<sup>1</sup>. We have considered our approach in consultation with the BSB's Race Equality Task Force. Regulatory bodies have a unique role that can provide a framework for professions to influence positive change. We also know the BSB has a role to assess its own internal culture and commitment to anti-racism, and to lead by example. To this end and as a start, we have:

- Completed a survey of all staff to identify their experiences of race at the BSB;
- Produced an action plan to improve anti-racist practice – including management leadership behaviours and workplace cultures;
- Trained the Equality and Access to Justice Programme Board, which includes all members of the senior management team, on anti-racist practice;
- Appointed a race and diversity specialist to our Advisory Pool of Experts; and
- Committed to training all our staff on anti-discriminatory practice.

### **In addition to commitments made in the emerging action plan, we will:**

Ensure that anti-discriminatory competencies<sup>2</sup> are integrated into our staff performance frameworks, staff inductions and the training of our Board. All staff will attend Dignity at Work training, which will focus on the creation of inclusive working cultures.

Continue to develop our anti-racist practice and provide direction to the Bar to do the same.

### **Call to action:**

In addition to our commitment to the Public Sector Equality Duty, our regulatory objective to *encourage an independent, strong, diverse and effective legal profession* drives our commitment to address racism through our regulatory tools. We aim to dismantle barriers that inhibit true racial equality through our role as a regulator.

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<sup>1</sup> Racism is the major obstacle to racial equality. "Anti-racism" recognises this and is the active process of identifying and eliminating racism in its many forms, by changing the systems, policies and practices, structures, attitudes and cultures which inhibit racial equality.

<sup>2</sup> "Anti-discriminatory competencies" means the knowledge and skills with which to challenge procedures and practices which lead to some people being treated in a way that disadvantages them based on a feature of their identity.

Since 2012, the [Equality Rules of the BSB Handbook](#) (Equality Rules) have required all chambers and BSB entities to embed the principles of equality and diversity into their day-to-day work, by developing and implementing an equality and diversity policy and action plan. In addition, all self-employed barristers have a personal obligation to take reasonable steps to ensure compliance with the Rules. The steps which it is reasonable for a Head of Chambers or Equality and Diversity Officer to take are likely to be more significant than the steps which it is reasonable for an ordinary member of chambers to take.

The [Supporting Information](#) to the Rules includes a model equality action plan and CIPD has published "[Developing an anti-racism strategy](#)". The Bar Council's Race Working Group has published this [Framework for Taking Action on Race Equality](#), which encourages the Bar to consider action in a number of areas.

We appreciate the actions that are needed will differ depending on individual circumstances, but we expect chambers and BSB entities to take this opportunity to deliver the following four actions:

1. **Complete a race equality audit** to identify the barriers to race equality, which should include:
  - a. Engagement with members of chambers from Black, Asian and Minority Ethnic groups (e.g. in the form of a survey, workshops or the establishment of a network or working group);
  - b. An analysis of available data, which should include but not be limited to data about recruitment (of lateral hires as well as pupil barristers), work allocation, ethnicity pay gaps and opportunities for development or progression (for example, external marketing opportunities and the membership of internal committees.) The Equality Rules require all chambers and BSB entities to be managed in a manner which is fair and equitable for all members, pupils and employees, including the fair distribution of work. They also require all chambers and BSB entities to monitor the allocation of unassigned work and set an expectation for chambers to monitor recruitment data. The "[Supporting Information to the Equality Rules](#)" includes guidance on these requirements. The Bar Council has published [guidance about discriminatory instructions](#) and [this article](#) in Counsel Magazine is useful.
  - c. A critical analysis of procedures for recruiting, retaining and supporting the progression of barristers from Black, Asian and Minority Ethnic backgrounds. You should refer to "[Race in the workplace: The McGregor-Smith Review](#)" and "[Race at Work 2018: The Scorecard Report](#)", which was published by Business in the Community in response to the McGregor-Smith Review. The Bar Council's "[Fair Recruitment Guide](#)" is signposted in the Equality Rules.
2. **Design and implement positive action measures**, where the audit shows that there is an underrepresentation of, or adverse impact on, people from Black, Asian and Minority Ethnic backgrounds. The Bar Council has published [two guides to positive action at the Bar](#). Examples of positive action may include targeted adverts to recruit people from Black, Asian and Minority Ethnic backgrounds into work experience or pupillage opportunities, and measures to support practising barristers from those backgrounds with development, marketing or progression opportunities. Where appropriate, and in response to evidence, positive action measures should be targeted at specific groups (e.g. Black Caribbean) and take an intersectional approach (e.g. Black Caribbean women.)

3. **Undertake comprehensive anti-racist training for all barristers and staff.** To be comprehensive, training should support the implementation of practical, tailored strategies to address barriers to race equality and have a positive impact on behavioural change by individuals and cultural change within organisations. In July 2020, we published [this case study](#) about compulsory anti-oppression and anti-racism training at One Pump Court Chambers.
4. **Produce and publish an anti-racist statement for members of chambers and the public,** to set out your commitments to address race inequality and ensure senior level buy in to, and accountability for, those commitments.

We expect this work to involve and, in many cases be led by, Heads of Chambers, Equality and Diversity Officers and other senior barristers within chambers.

#### *Sole practitioners*

We encourage sole practitioners to take proportionate steps to fulfil the expectations in this Statement. It would be proportionate for sole practitioners to undertake training on race equality, particularly if they employ staff and come into regular contact with lay clients. Similarly, it would be proportionate for sole practitioners to review their approach to recruitment if they employ people, and publish an anti-racist statement if they have a website.

#### *Employed barristers*

The Equality Rules do not apply to employed barristers. Notwithstanding this, they are encouraged to discuss the expectations in this Statement with their employers (for example, with a race or equality and diversity network), and take proportionate steps to support their fulfilment. Employers may already be taking steps to address race inequality, independently or in line with expectations set by another regulator.

#### **Next steps**

In the course of the business year 2021 to 2022, we will launch a thematic review of the profession's response to this statement. We will ask what actions have been taken in response to those identified above. We will take into account the resource challenges experienced by some chambers, as a result of Covid-19.