

Pupil Reasonable Adjustments Policy

Introduction

1. This dedicated Pupil RA Policy (“the Policy”) applies to pupillage in conjunction with the Workforce Reasonable Adjustments Policy.
2. Chambers’ approach to reasonable adjustments (RAs) for pupils with a disability has the overriding objective of supporting every pupil to complete pupillage successfully and be able to make an application for tenancy. The Policy reflects the particular importance of making timely and appropriate adjustments in light of the length and nature of pupillage. It is intended to ensure that all reasonable steps are taken to remove or reduce any disadvantage faced by disabled pupils.
3. Chambers’ approach to adjustments is also applied by analogy to pupils with health conditions that give rise to a disadvantage in pupillage.
4. All Pupils will have:
 - a. A discussion and consideration of RAs well before pupillage starts, and makes no assumption about which pupils have a disability/impairment or health condition that could give rise substantial disadvantage in pupillage;
 - b. Transparent and secure processing of information, shared on a need-to-know basis, and always in consultation with the pupil and subject to their agreement;
 - c. Identification, before and throughout pupillage, of alternative avenues for advice, sounding boards, and support in the RA process from staff and barristers, if desired, including those with lived experience of managing disabilities and health conditions in practice and pupillage;
 - d. An explanation of how information is passed to and used by supervisors, and how it is kept separate from the supervisors’ role in ongoing assessment, unless and to the extent that the RA is relevant to that assessment;
 - e. A resolution process for dealing with any concerns about refusal or failure to make RAs which will be handled by someone who has not been involved in the process to date, is not involved in selection for tenancy, and who has an appropriate understanding of disability equality and pupillage.
5. This policy covers:
 - a. the process for raising a potential RA issue with the People Team or their supervisor, before and during pupillage;
 - b. the duty on supervisors and staff to proactively consider whether the pupil may be disabled in a way that is disadvantaging them;
 - c. Occupational Health Assessments (OHAs);

- d. RAs in the second six (practising period); and non-exhaustive examples of the RAs which could be made.

The Disability Working Group, alternative avenues, and concerns about sharing information

6. Support in working out what RAs will best suit a disabled person is particularly useful where they are moving into a new role (which will always be the case with someone commencing pupillage), where they have recently become disabled or acquired an additional disability, or where their condition is progressive.
7. It may be useful to refer to Access to Work (<https://www.gov.uk/access-to-work>), who can provide funding associated with the costs of support of self-employment.
8. Pupils can speak to the People Team, the EDO or supervisors at any time. Pupils can contact any member of the DWG at any time to discuss or register any concern, or to seek a second opinion. There will also be options for external advice from Occupational Health specialists (below).
9. The EDW&I Committee and the DWG monitor the operation of this policy.
10. Options for who Pupils could speak to will always include barristers who are not involved in the assessment process for tenancy. It is understood that pupils may be concerned about how information about disabilities and RAs may be shared in connection with assessment for tenancy
11. This policy includes procedures to limit the need for repeat disclosures by pupils and the stress that can entail. The guiding principle is that information about RAs is shared on a need-to-know basis and always by consent. That principle is particularly important in relation to recruitment from pupillage. Before deciding whether to consent to its use for the purposes of RAs, pupils are always entitled to clarification and advice about how information will be shared and accessed during pupillage and in particular to what extent it will include those involved in the tenancy application process. (See also the section on Recruitment from pupillage to tenancy in this Policy.)
12. Chambers recognises that disablism can deter pupils from disclosing non-apparent disabilities, including any relating to mental illness/disorder. Pupils will be introduced to the EDO and DWG before they start pupillage, so will be able to discuss possible disclosures with the EDO or relevant DWG members before seeking adjustments.
13. The DWG will facilitate alternative avenues and sounding boards throughout pupillage and will work to link pupils with other disabled or allied barristers with

relevant experience with whom pupils can discuss possible RAs. The best person will often be someone who has recently gone through the same processes (pupillage and RAs).

Upon accepting an offer of pupillage

14. At the time when an offer of pupillage is accepted, pupils will be told about the pre-pupillage meeting that will take place at least a month before pupillage starts at which RAs will be discussed (see the following section). They will be supplied with a copy of this Policy. They will be invited to raise any RA issue to which they would like Chambers to give early consideration. This can give Chambers the opportunity to deal with RAs that need more time to put in place, such as infrastructure changes requiring third party consents.
15. Any information they provide will be held securely by the People Team and shared more widely only for the purpose of arranging adjustments and with the pupil's consent.
16. In line with Chambers' aim to minimise the number of times that pupils need to make the same disclosure, pupils will be asked, when they accept the offer of pupillage, whether they want information they have given during the application process about disabilities, health conditions, and RAs to be retained and considered for the purposes of pupillage. Any such information will be reviewed by the Head of People to check whether it needs early planning and otherwise will be discussed with the pupil at the pre-pupillage meeting.
17. Pupils who express an interest will also be introduced to the DWG at this stage, who will offer the options set out in the preceding section.

Pre-pupillage process

18. No less than one month before pupillage starts (and earlier depending on any potential RAs requirements that are already known), all pupils will be invited to a face-to-face meeting, at which RAs will be discussed, with the Head of People or other staff member who understands the content and nature of pupillage as well as disability equality. Pupils should also meet with a member of the DWG at this meeting or be offered a separate meeting with a member.
19. Pupils will be asked to share information only to the extent relevant to arranging RAs. In advance of the face-to-face meeting, all pupils will be sent a form in which they are asked to consider the following questions:

Do they have a disability or health condition that they would like to share?

Have they already identified any adjustments they would like to propose?

20. Chambers will not ask any more intrusive or extensive questions at the outset for the purpose of meeting the RA duty to pupils. If the answer to any of these questions is yes, then a more detailed discussion should follow, based on the questionnaire, either in the pre-pupillage meeting or a follow-up meeting (or in writing if it is clear that no further meeting is required).
21. Whether or not any potential RA requirements are indicated at this meeting, the pupil will be assured that there will be proactive and continuing consideration of potential RAs throughout pupillage, consistent with Chambers' duties under the Equality Act.
22. There will be RAs which can usefully be determined only after pupillage starts (or for which the need is appreciated only after pupillage starts). There is therefore no expectation that it will be possible to identify all RAs until pupillage is underway. Nevertheless, it is possible and may be important to identify and deal with some in advance and to assure pupils that they have a safe space to raise others when the need is identified. An important purpose of the process described in this section of discussing RAs before pupillage starts is also to give pupils reassurance and lessen anxiety.

Occupational Health Assessments and other advice and evidence

23. As a Chambers, we recognise that in many cases a person with a disability or medical condition is usually in the best position to advise as to the reasonable adjustments they need in order to conduct their day-to-day work. However, there may be circumstances in which Chambers' duty to make reasonable adjustments requires it to recommend adjustments in addition to or different from those that might be sought by the person with a disability. By way of example this may occur where a person is transitioning into a new role or has recently become disabled or acquired a new disability or medical condition. In such circumstances, Chambers may consider that evidence and/or assessment may assist in ensuring that appropriate and effective reasonable adjustments are offered.
 24. An appropriate Occupational Health Assessment (OHA) will often be an important element of compliance with the RA duty and will usually be a reasonable adjustment in itself if requested by the pupil. The following principles apply whether the OHA is proposed by Chambers or requested by the pupil.
 25. A realistic timescale for the OHA referral should be agreed between the People Team and the pupil.
 26. The decision will take account of the twin imperatives of timeliness, in light of the need to put adjustments in place in good time within the first seat, and quality, in light of the particular nature and demands of pupillage.
 27. Timescales for the OHA meeting to take place and the report to be received will therefore be agreed with the OHA provider, balancing quality and timeliness in consultation with the pupil. Especially where there are unavoidable delays in the OHA process, Chambers
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will look at what might be done to alleviate the position in the meantime, including by way of interim assessments.

28. The content of the referral to the assessor should be discussed and agreed with the pupil. It may be pro forma, so that the pupil can decide during the assessment how to share information, without any risk of prejudging the assessor's view on any issue. Alternatively, if it is not pro forma, then it needs to be completed in consultation with the pupil by someone who understands the nature of pupillage as well as understanding disability equality.
29. While awaiting the report, where there is an apparent need for RAs, these will be agreed and implemented wherever possible, at least provisionally pending the report from the OHA. Pupils will be encouraged to identify any possible interim RAs. Even if the appropriate adjustments are unclear or challenging for any reason, the referral for an OHA will not be treated as a basis to shelve the question until Chambers receives the report.
30. When the report is received, it will be discussed between the People Team and the pupil (and their supervisor as appropriate), and expectations will be agreed for timescales for implementing RAs in light of the OHA report. Either the People Team or the pupil supervisor will then take responsibility for monitoring implementation.
31. In some cases, the People Team or a supervisor may consider that they would be assisted by other advice or evidence (in addition to or instead of an OHA report) in order to identify the most appropriate and effective reasonable adjustment(s) and, in particular, to ensure any reasonable adjustments granted will assist the pupil to meet the competences in the Professional Statement to the threshold standard, in accordance with the Curriculum and Assessment Strategy.¹ In order to have the best available evidence, it is open to the pupil supervisor to request a relevant report or other evidence from the applicant which describes the disability in question and/or makes recommendations as to reasonable adjustments. If it is necessary to commission a new report or assessment, the cost of that report or assessment will be borne by Chambers.
32. The aim of any request for relevant clinical/expert evidence should always be to assist the person concerned with overcoming substantial disadvantage by correctly identifying both the disability and appropriate reasonable adjustments. All sensitive information will be handled in accordance with the GDPR and data protection law.
33. The pupil will always be entitled to refuse to provide Chambers with private information in the form of clinical expert reports, advice or guidance or to undertake an OH assessment. Chambers will approach such assessments with the aim of ensuring that it

¹ See: <https://www.barstandardsboard.org.uk/training-qualification/bar-qualification-manual-new.html?part=E139B591-FFA0-441F-9651D9E88430A159> at 4B(1). See also: <https://www.barstandardsboard.org.uk/training-qualification/the-professional-statement.html>.

is in a position to make reasonable adjustments best able to allow the pupil to overcome the relevant disadvantage. A pupil will not be penalized for deciding not to provide information or undertake an assessment. However, a decision not to provide information or undertake an assessment may mean that a potentially appropriate reasonable adjustment, which might only have been formulated as a result of either of those processes, may not be considered or made.

34. Any request for the provision of information or the undertaking of an assessment will take into account the potential deleterious impact of the same on the applicant (e.g. by way of intrusiveness). The People Team should be consulted about any proposal by a pupil supervisor or other member of Chambers to seek medical or clinical reports.

Pupil supervisors and first six (Non-Practising period)

35. Sharing of information with and between supervisors will always occur in consultation with, and subject to the agreement of the pupil.
36. The People Team will discuss in the pre-pupillage process what information relevant to disabilities and health conditions and adjustments (whether agreed or under consideration) will be shared with the pupil's first supervisor(s). Supervisors should (after consultation with pupils and only by consent) then be supplied with any relevant disability/health information and RAs.
37. Whether or not they have received relevant information from the People Team, supervisors will explain at their first meeting with the pupil that any further information relevant to potential RAs, or any request for RAs, can be raised directly with themselves, or with the People Team.
38. Supervisors have an ongoing duty to consider proactively whether any RA may be appropriate for their pupil. In particular, they have a duty to consider whether there is a duty to make an RA in order to address a substantial disadvantage faced by a pupil in terms of meeting the competences in the Professional Statement to the threshold standard, in accordance with the Curriculum and Assessment Strategy.² They should sensitively and appropriately raise the question of RAs where they could reasonably be expected to know that the pupil is disabled or may be developing a disability or health condition, e.g., from an absence, a delay in returning to work or performance problems which may suggest a disability (see Equality Act Code of Practice: Employment, paragraph 6.19 and its example).
39. Supervisors will receive training in their RA duties under the Equality Act including how to approach discussions and how to respond to relevant disclosures about RAs using the structured questionnaire and in the types of RAs that they may be able to make or coordinate.

² See: <https://www.barstandardsboard.org.uk/training-qualification/bar-qualification-manual-new.html?part=E139B591-FFA0-441F-9651D9E88430A159> at 4B(1).

40. Examples of adjustments (other than for court work, which is addressed below) include: adjustments to working hours and/or the provision of breaks, adjustments to workspace in chambers, the facilitation of home working, the provision by Chambers of auxiliary aids, adjustments to workload and limits on accepting work (or devilling) for members of chambers other than the supervisor.

RAs in pupillage training

41. The People Team and Pupillage Committee will take particular care to ensure that pupils are consulted about RAs that will affect the arrangement of pupillage training sessions, and that these RAs are implemented, including when scheduling pupillage training.

Transferring seats

42. In line with Chambers commitment to limit the need for repeat disclosures and the stress that entails, a new supervisor will, with the pupil's consent, be informed in advance of any live RA arrangements or other information relevant to RAs (unless it is not applicable in the new seat). The supervisor will therefore discuss this with the pupil before the end of the seat, and with the People Team if they are involved in operating the RA.
43. The new supervisor will address RAs at their first meeting with the pupil, whether or not they have received any relevant information. For the avoidance of doubt, the new supervisor will approach proactive consideration of RAs in the way described at paragraph 32 above.

Second six (Practising period)

44. Pupils may well not be able to identify what RAs they may need in pupillage until they are given sufficient information about the expectations in terms of, for example:
- a. the type and range of work they will be asked to undertake;
 - b. the notice periods within which they may be briefed;
 - c. the amount of out of hours hearings for which they should be available;
 - d. the length, nature, and frequency with which they will be expected to travel;
 - e. where applicable, the accessibility of the courts to which they are sent including any RAs generally available in these courts.
45. At least one month before the second six begins, the pupil's current supervisor will (in conjunction with the clerks) ensure that the pupil is supplied with this information and will encourage the pupil to consider any RAs (including amended or additional RAs) that may be needed.

46. Where a pupil moves to a new seat at the same time as starting their second six, the

process above for passing on information when transferring seats will apply. Bearing in mind the concerns a pupil may well have about a second six, the outgoing supervisor should take particular responsibility for ensuring, with the pupil's consent, that the new supervisor is briefed on information relevant to identified and potential RAs in court work.

47. The People Team will also meet with the pupil to ensure that they have been provided with sufficient information about their workload to enable them to consider this question and support them in considering what adjustments may be appropriate.
48. Supervisors and the People Team, in conjunction with the pupil, will ensure that specific and careful consideration is given to how any existing RAs may be affected by court work during the second six, and whether and how they may need to be altered to address that.
49. Adjustments for court work during the second six may include minimum notice periods for briefing and receipt of papers, and limits to areas of work, courts to which the pupil will be sent, and travel time, agreement as to the method by which the pupil will be contacted and/or the hours within which they will be contacted in respect of work, and/or support with ensuring any RAs agreed by the court or instructing solicitors are adhered to.
50. Pupil supervisors immediately before and during second six will actively monitor and support any RAs relating to the booking of court work, including the pupil's clerking.

Clerks

51. Clerks have the same duty under s.47 of the Equality Act as barristers to make RAs for pupils, including the duty of proactive consideration set out in paragraph 32.
52. Before the second six starts, clerks who will be responsible for clerking pupils will liaise with the People Team and pupil supervisors to ensure they have all of the necessary information to implement existing and/or identified RAs that relate to clerking for court work.
53. Clerks will receive training in their RA duties under the Equality Act including on how to approach discussions and respond to disclosures relevant to RAs for court work during the second six.

Recruitment to tenancy from pupillage

54. At the same time that pupils receive the tenancy application form, they will be invited to request a meeting to discuss RAs in the tenancy application process. With the pupil's consent, the staff member responsible for coordinating the tenancy application process should attend this meeting.
55. Examples of RAs which may be made for the tenancy application process include

adjustments to the deadlines for particular stages of the application process; additional time and/or breaks during the advocacy assessment and tenancy interview; and adjustments to the physical environment of the assessment and interview rooms.

56. Whether or not a meeting is requested, the supervisor(s) and/or People Team will be responsible, in consultation with the pupil, for ensuring that existing RAs are checked and fully taken account of in the application process and in the assessment process.
57. Pupils with concerns about how existing or requested RAs are being taken into account will be encouraged to raise this with the staff member responsible for coordinating the tenancy application process, or alternatively with the Disability or Pupillage Committees as they prefer.
58. The application form will include space for the pupil to provide information about RAs and their relevance to their pupillage and future practice.
59. Should a pupil disclose a requirement for an RA to the tenancy application process and should that requirement need to be disclosed to the tenancy panel, the member of staff organising the tenancy application process will communicate that requirement to the tenancy panel. The pupil will have an opportunity to review the information being sent to the tenancy panel and the sending of the information will be subject to the pupil's consent. It will be made clear to the pupil who will have sight of the information, for example, whether that information will be included in the report or other documentation which is provided to the Management Board. For the purposes of limiting the sharing of personal and sensitive information on a need-to-know basis, that information will not be shared with the Management Board unless absolutely necessary and subject to the pupil's consent.

Concerns and complaints

60. Where a pupil is concerned that RAs are not being considered adequately or sufficiently quickly, a resolution process will be offered for dealing with any concerns about refusal or failure to make RAs or delays in considering them.
61. This will be handled by someone who has not been involved in the process to date, is not involved in selection for tenancy, and who has an appropriate understanding of disability equality and pupillage. The pupil can choose to approach the EDO, DWG, Pupillage Committee or the People Team for this purpose (depending on who has previously been involved in the process).
62. Any pupil with concerns about the operation of this policy or any decision made under it is also encouraged to bring this to the attention of the CEO in line with the workforce policy.

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