

# fladgate

## 1. Inclusivity, diversity and equality policy

### *General statements*

- 1.1 The Firm is committed to inclusivity and diversity and to ensuring the equality of opportunity and fairness in all areas of employment and in all our professional dealings.
- 1.2 The Firm believes that we all have the right to work in an environment which promotes the equality of opportunity and prohibits discriminatory practice, and that everyone should be treated with dignity and respect. We do not tolerate any form of discrimination, harassment or victimisation against our people.
- 1.3 The Firm seeks to treat all job applicants, employees, partners and other workers equally and without regard for age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.
- 1.4 The Firm's most important and valuable resource is its staff. The Firm believes that it is stronger as a result of our diversity and is committed to ensuring that all staff are treated in a fair and effective way.
- 1.5 It is unlawful to discriminate against any individual, directly or indirectly, and the Firm is determined to create a working environment that is free from any form of discrimination, harassment, victimisation and bullying and within which all individuals are treated with respect, fairness and courtesy.
- 1.6 The same commitment applies to our dealings with barristers, other lawyers, clients and third parties.
- 1.7 The Firm has appointed a senior equity partner as inclusivity and diversity partner. They are responsible for promoting our inclusion and diversity initiatives and, assisted by the HR department, ensure that the inclusivity, diversity and equality policy is regularly reviewed and updated.
- 1.8 The Firm is at all times mindful of the provisions of the Equality Act 2010 and the Solicitors' Code of Conduct. The Firm is also a signatory to the Law Society Diversity & Inclusion Charter.
- 1.9 Everyone working at Fladgate is required to comply with this policy, including employees, partners, temporary or agency workers, trainees, work experience students, secondees, contractors and consultants as well as potential new employees and recruitment candidates.

### *Recruitment, selection, training and promotion*

- 1.10 The Firm will ensure that there are equal opportunities in all stages of the recruitment process and all applications are welcomed and are considered for selection on the relative merits of the applicant against the job and/or personal specification for the position regardless of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.
- 1.11 Job and person specifications will only include criteria which are objectively required for the duties and responsibilities of the vacancy, and will be prepared at the start of the recruitment process. However, if there is any genuine and lawful

# fladgate

reason for limiting the vacancy to a particular group, this reason and the grounds for it will be clearly stated on any advertisements.

- 1.12 We aim to provide everyone with the appropriate learning and development opportunities to enable them to support their development, improve their performance and achieve the performance targets set for them. Opportunities for learning and development are available to everyone based on role/needs of the job and encouraging personal development.
- 1.13 In addition to induction training for all new joiners, the Firm is committed to inclusivity, diversity and equality awareness training for all partners and employees.

## *Promotion*

- 1.14 Promotion within the Firm, including to partnership, is made without any form of discrimination and is based on merit and the reasonable requirements of the role only. Please refer to the Firm's Route to Partnership document for further details.

## *Barristers and other subcontractors*

- 1.15 Barristers should be instructed on the basis of their skills, experience, cost and ability and not on the grounds of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.
- 1.16 Barristers should wherever possible be selected from those previously approved by the Firm and included on the preferred suppliers list.
- 1.17 A client's request 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.
- 1.18 The Firm will endeavour to persuade the client to modify instructions which appear to be given on discriminatory grounds.

## *Clients*

- 1.19 The Firm is generally free to decide whether to accept instructions from any particular client, but refusal to act for a prospective client will not be based upon any form of discrimination.
- 1.20 Any complaint by a third party alleging discrimination will be reported to the inclusion and diversity partner and the head of risk for resolution.

## *Terms and conditions of employment / engagement*

- 1.21 The Firm is committed to equal pay opportunities and ensures that terms and conditions of employment / terms of engagement are free from all forms of discrimination and apply equally regardless of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.

## *Disability*

- 1.22 The Firm values the contribution of all colleagues and prospective employees from all sectors of the community. The Firm is committed to facilitating the employment of people with disabilities and retaining individuals who become

# fladgate

disabled whilst employed/engaged by us wherever practicable. In order to achieve this, the Firm will apply the following principles:

- 1.22.1 take reasonable steps to ensure that the working environment, working practices, terms and conditions of employment and terms of engagement do not prevent people with disabilities from taking positions for which they are suitably qualified and the best person for the job;
  - 1.22.2 avoid, remove or alter the barriers to the employment of people with disabilities wherever possible when fitting out the office environment with equipment and devising working practices;
  - 1.22.3 make reasonable adjustments to recruitment arrangements, the working environment, working practices and role responsibilities wherever possible and practicable so as to ensure that no particular disabled person is placed at an unreasonable disadvantage;
  - 1.22.4 ensure that any decision not to make an adjustment which might assist a colleague or prospective colleague will not be taken below the level of Head of Department after consultation with the HR department. Before making such a decision, the Firm will ensure that all possible reasonable adjustments have been fully investigated, including consultation with the individual concerned and any appropriate expert advice;
  - 1.22.5 ensure that any colleagues who become disabled whilst in employment are given the full support of the Firm and our occupational health advisers to continue in their own job (where practicable and having put in place any reasonable adjustments) or is offered a move to an alternative job appropriate to his/her experience if available;
  - 1.22.6 respond promptly (within ten working days) to requests for reasonable adjustments from colleagues, albeit further discussions and investigations may well be needed;
  - 1.22.7 continue to provide services and facilities to clients and visitors with disabilities.
- 1.23 Further guidance and information can be obtained on a confidential basis from the HR department. If you know or believe that you might be disabled, you are encouraged to discuss this with the HR department so that the Firm can ensure you achieve your full potential and that we comply with our responsibilities.

## *Monitoring and review*

- 1.24 The Firm is committed to monitoring the effectiveness of this inclusivity, diversity and equality policy.
- 1.25 The Firm undertakes to regularly review its policies, procedures and practices regularly in order ensure they comply with any legislative changes and good practice.
- 1.26 Our policies and any changes implemented are promoted through internal communications and training is provided where necessary in order to promote and ensure compliance.
- 1.27 The Firm endeavours to identify and take all steps necessary to eliminate any unjustified discrimination or victimisation which is revealed by this monitoring

# fladgate

process and which is required to achieve our commitment and vision for equality and diversity.

## *Inclusivity, diversity and equality training*

- 1.28 In addition to induction training for all new joiners, the Firm is committed to inclusivity, diversity and equality awareness training for all partners and employees in order to promote this policy and to ensure compliance.

## *Diversity data collection procedure*

- 1.29 The Firm monitors its diversity composition on an ongoing basis. It reports this to the SRA on a regular basis and publishes the results on its website. In addition, as part of the Firm's graduate recruitment programme we produce an analysis of the gender, ethnicity, age and disability of trainee candidates.

## *Discrimination, victimisation and harassment*

1.30

### *Discrimination and victimisation*

- 1.30.1 A person has been discriminated against if they are treated less favourably than another on the grounds of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.
- 1.30.2 Discrimination can be either direct (where a person is treated less favourably than another because they have or are thought to have one of the protected characteristics set out above) or indirect discrimination (where a condition, rule, policy or practice is applied to all employees but particularly disadvantages people who share a protected characteristic).
- 1.30.3 Discrimination also includes harassment, bullying or victimisation on any of these grounds.

### *Harassment*

- 1.30.4 Harassment is unjustified, unreasonable or inappropriate treatment of, or behaviour towards, another person which causes them distress, discomfort or worry. Harassment may include bullying. Harassment may be discriminatory when it is on the grounds of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities.
- 1.30.5 Harassment will be unlawful discrimination if:
- 1.30.5.1 unwanted conduct takes place;
  - 1.30.5.2 it is on discriminatory grounds;
  - 1.30.5.3 with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment;
  - 1.30.5.4 it is reasonable to form the view that this is the impact of the offending behaviour.

# fladgate

- 1.30.6 The following types of behaviour may amount to harassment:
- 1.30.6.1 physical assault;
  - 1.30.6.2 physical or verbal abuse including threats;
  - 1.30.6.3 suggestive comments or gestures;
  - 1.30.6.4 suggestive or offensive emails;
  - 1.30.6.5 insulting or abusive behaviour or comments;
  - 1.30.6.6 isolation or exclusion from work opportunities, corporate, social or sporting events;
  - 1.30.6.7 persistent criticism or humiliation; or
  - 1.30.6.8 unfair allocation of work or responsibilities.
- This list provides examples only and is not an exhaustive or exclusive list.

## *Sexual harassment*

- 1.30.7 The following types of behaviour may amount to sexual harassment:
- 1.30.7.1 physical conduct of a sexual nature;
  - 1.30.7.2 unwanted physical conduct or conduct even if not obviously sexual including unnecessary touching, brushing against another individual, or uncomfortable proximity;
  - 1.30.7.3 verbal conduct of a sexual nature including unwelcome sexual advances, continued suggestions of social activity outside work after it has been made clear that this is unwelcome, or suggestions that sexual favour may further a career (or refusal may hinder it);
  - 1.30.7.4 behaviours or treatment which an individual faces because they will not submit to invitations of a sexual nature or unwelcome advances, including social invitations e.g. a date;
  - 1.30.7.5 insults, ridicule or teasing of a sexual nature, insults related to gender or sexual orientation, offensive comments about appearance or dress, talk or jokes of a sexual nature which a person has indicated they dislike; or
  - 1.30.7.6 display of sexually suggestive or pornographic pictures, or sending such items electronically, sending sexually harassing messages or images through email.

Again, this list provides examples only and is not exhaustive or exclusive. Sexual harassment by someone of the same sex as the victim is also covered by this policy.

## *Homophobic bullying and harassment*

- 1.30.8 The following types of behaviour may amount to homophobic bullying and harassment:
- 1.30.8.1 making homophobic insults or threats;

# fladgate

- 1.30.8.2 making unnecessary and degrading references to an individual's sexual orientation;
- 1.30.8.3 engaging in banter or making jokes which are degrading to a person's sexual orientation or perceived sexual orientation;
- 1.30.8.4 outing an individual as lesbian, gay, bisexual, transgender or questioning (**LGBTQ**) without their permission;
- 1.30.8.5 ignoring or excluding a colleague from activities because they are LGBTQ;
- 1.30.8.6 spreading rumours or gossip about an individual's sexual orientation;
- 1.30.8.7 asking an LGBTQ colleague intrusive questions about their private life;
- 1.30.8.8 making assumptions and judgments about a colleague based on their sexual orientation;
- 1.30.8.9 using religious belief to justify anti-gay bullying and harassment.

Again, this list provides examples only and is not exhaustive or exclusive.

## *Bullying*

- 1.30.9 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.
- 1.30.10 Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:
  - 1.30.10.1 physical or psychological threats;
  - 1.30.10.2 overbearing and intimidating levels of supervision;
  - 1.30.10.3 inappropriate derogatory remarks about someone's performance; or
  - 1.30.10.4 cyberbullying (the misuse of the internet, email or mobile phones to send aggressive messages and threats).
- 1.30.11 Legitimate, reasonable and constructive criticism of an employee or partner's performance or behaviour, or reasonable instructions given to employees or partner in the course of their employment, will not amount to bullying on their own.

## *Our collective obligations*

- 1.31 We should all be fully aware of the behaviour that can constitute discrimination, harassment, bullying or victimisation. It is the responsibility of each of us to be sensitive to the individual needs of all, whether they relate to disability, cultural or religious background, personal circumstances, or any other relevant factor. We must be conscious of the impact we have on others and not to discriminate against, harass or bully colleagues or condone discrimination, harassment,

# fladgate

victimisation or bullying by others. We must all behave in a way that supports this policy and treat each other with respect, courtesy and dignity.

- 1.32 We should all comply with this policy and report any incidents or alleged incidents to our manager or to the HR department.
- 1.33 In the event of a complaint which falls within this procedure, it is the Firm's aim to reach a resolution as quickly as possible and as informally as possible. All complaints will be treated seriously and with the appropriate confidentiality.

## *Consequences of discrimination, victimisation and harassment – disciplinary sanctions*

- 1.34 Any behaviour involving discrimination, harassment, bullying or victimisation of another on the grounds of age, race, religion or belief, gender, sexual orientation, disability, marriage and civil partnership, pregnancy and maternity, gender reassignment, social or educational background or family or care responsibilities will not be tolerated.
- 1.35 Such behaviour, or failure to co-operate effectively, may amount to gross misconduct in which case disciplinary action (including dismissal for serious offences) will be taken against any person breaching this policy.

## *The complaints procedure*

1.36

### *Right to be accompanied*

- 1.36.1 The employee will be entitled to be accompanied at any meeting at which their complaint is discussed with them, and at any subsequent appeal meeting, by a work colleague, trade union representative/official or other official who has been certified by the union to act as a worker's companion.
- 1.36.2 The companion should not be a member of the HR department, a partner, or a fee earner or legal adviser (including partners and consultants) working in the employment team. This is to avoid a conflict arising as departments may be required to provide advice or other assistance.
- 1.36.3 The employee should ensure that their chosen companion is able to attend the meeting and is willing to act in this capacity. If the chosen companion is unavailable on the proposed day of the meeting, the meeting may be postponed at the employee's request by up to five working days.
- 1.36.4 If the employee's choice of companion is unreasonable, for example due to a conflict of interest or if the companion is unable to attend for an unreasonable period of time, the Firm may ask the employee to choose an alternative companion.

### *Making a complaint – informal resolution*

- 1.36.5 Anyone who believes that they are the victim of discrimination, victimisation, bullying or harassment should, where possible, raise the matter informally with the person against whom they have the complaint and should explain that their behaviour is not welcome or makes them uncomfortable. If this informal approach does not work, the formal complaints procedure below should be used.

# fladgate

- 1.36.6 If it is not appropriate to do so, or if the employee feels unable to do so for any reason, they should discuss the issue with their line manager.
- 1.36.7 If the employee feels unable to speak with their manager, they should contact a member of the HR department who can provide confidential advice and assistance in resolving the issue formally or informally.
- 1.36.8 If the employee or partner is not certain whether an incident or series of incidents amounts to bullying or harassment, they should initially contact their line manager or a member of the HR department informally for confidential advice.
- 1.36.9 Alternatively, the employee may wish to contact the Firm's employee assistance programme confidential telephone helpline which operates 24 hours a day (see Section 7, paragraph 7.1).
- 1.36.10 If an employee or partner wishes to make a formal complaint about bullying or harassment, they should submit this in writing to the HR Director, whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. If the matter concerns that person, the employee or partner should refer this to the Head of Risk and Compliance .
- 1.36.11 The written complaint should set out full details of the conduct in question, including the name of the harasser or bully, the nature of the harassment or bullying, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.
- 1.36.12 As a general principle, the decision whether to progress a complaint is up to the employee or partner. However, the Firm has a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

## *Formal investigation*

- 1.36.13 Where a formal complaint has been made, a prompt investigation will be conducted where the allegations will be carefully and discreetly reviewed. The matter will be dealt with promptly, fairly, and impartially. Care will be taken to ensure that the reputation of each party is not unjustly affected during the course of the investigation. Individuals not involved in the complaint or the investigation should not be told about it.
- 1.36.14 The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint. The investigation should be thorough, impartial and objective, and carried out with sensitivity and due respect for the rights of all parties concerned.
- 1.36.15 A meeting will be arranged, usually within one week of receiving the written complaint, so that the employee or partner raising the complaint is able to provide their account of events. A provisional timetable for the investigation will be provided, and the investigator will arrange further meetings with the complainant as appropriate throughout the investigation.
- 1.36.16 The investigation will involve hearing detailed accounts from both parties, and the alleged harasser will be provided with details of the nature of the complaint and an opportunity to respond. Other



# fladgate

individuals may also be asked to provide information. Documents, emails and other evidence may be considered.

- 1.36.17 A full record of the progress and outcome of the investigation and any steps taken will be reported to the complainant at the earliest opportunity.
- 1.36.18 Where the complaint is about an employee, the Firm may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. The investigator will also meet with the alleged harasser or bully (who may also be accompanied by a colleague or trade union representative of their choice) to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.
- 1.36.19 If the complaint is about someone other than an employee, such as a client, supplier or visitor, the Firm will consider what action may be appropriate to protect the complainant and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
- 1.36.20 It may be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.
- 1.36.21 At the end of the investigation, the investigator will prepare a report of the investigation and their findings. The investigator will arrange a meeting with the complainant, usually within a week of preparing the report, to discuss the outcome and what action, if any, should be taken. A copy of the report findings will be given to both the complainant and the alleged harasser.

## *Action following the investigation*

- 1.36.22 If the investigator considers that harassment or bullying has occurred, prompt action will be taken to address it.
- 1.36.23 Where the harasser or bully is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct under the Firm's disciplinary procedure (as set out in the staff handbook under paragraph 8 above. If the harasser or bully is a third party such as a client or other visitor, the Firm will consider what action would be appropriate to deal with the problem.
- 1.36.24 Whether or not the complaint is upheld, the Firm will consider how best to manage any ongoing working relationship between both parties.
- 1.36.25 If the complaint is not upheld, the complainant will be provided with an explanation for and the reasoning behind the decision.
- 1.36.26 Individuals who maliciously make unfounded allegations, deliberately provide false information or otherwise act in bad faith as part of an investigation, may be subject to action under the Firm's disciplinary procedure.

# fladgate

## *Appeals*

- 1.36.27 The employee or partner has the right to appeal the Firm's decision, if the complaint has not been resolved to their satisfaction. An appeal should be submitted in writing to the Director of HR and Business Services, within five working days of receiving notification of the original decision from the formal procedure.
- 1.36.28 The appeal will usually be dealt with impartially by a senior manager who has had no involvement in the original complaint (although they may ask anyone previously involved to be present).
- 1.36.29 The employee or partner will be invited to attend an appeal meeting to discuss their complaint and reasons for appeal. This will be arranged within a reasonable time frame and as soon as practicable, upon receipt of the written appeal. If possible, the appeal meeting will be held within ten working days of receiving the written appeal, subject to the availability of those considering the appeal. The complainant will be informed if there is to be any delay beyond this timescale.
- 1.36.30 The senior manager hearing the appeal will be provided with a copy of the original complaint and a record of the original meeting, the investigation undertaken and the decision from the original complaint.
- 1.36.31 The employee or partner will have the right to be accompanied at any appeal meeting by a companion as before (as defined in this procedure).
- 1.36.32 The outcome of the appeal will be relayed to the employee or partner in writing as soon as practicable after the appeal meeting and, if possible, within five working days of the date of the appeal meeting.
- 1.36.33 The outcome of the appeal is final and there is no further right of appeal.

## *Protection and support for those involved*

- 1.37 Employees or partners who make a complaint or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under the Firm's disciplinary procedure.

## *Confidentiality and record-keeping*

- 1.38 Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Breach of confidentiality may give rise to disciplinary action under the Firm's disciplinary procedure.
- 1.39 Information about a complaint by or about an employee or partner may be placed on the individual's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.

Reviewed and updated October 2020