TECBAR EQUALITY & DIVERSITY POLICY

Section 1: Statement of Policy

1. The Technology and Construction Bar Association (“TECBAR”) is the name of the specialist bar association for practising barristers (whether employed or self-employed) who are regulated by the Bar Council and the BSB and who pay subscription fees to the General Council of the Bar of England and Wales and:
	1. Who regularly practise, or intend to practise, in the Technology and Construction Court, or
	2. Who regularly carry out, or intend to carry out, like work in other courts or before arbitral or other tribunals, or
	3. Whose professional work is wholly or mainly advisory in fields with which the Technology and Construction Court deals

in accordance with Rule 3(a) of the Rules of TECBAR and/or for any person who is elected to become an honorary member of TECBAR in accordance with Rule 3(b) of the Rules of TECBAR.

1. There is a TECBAR Committee which is comprised of members of TECBAR elected and co-opted in accordance with the Rules of TECBAR, referred to below as “Committee Members”. Committee Members include the elected Officers of the TECBAR Committee for the purposes of this policy.
2. The aim of this policy is to communicate the commitment of TECBAR and the Committee Members to the promotion of equality of opportunity and diversity in TECBAR.
3. It is TECBAR’s policy to provide equality in TECBAR’s dealings to all, irrespective of:
* Age
* Disability
* Gender reassignment
* Marital status or civil partnership status
* Pregnancy and maternity
* Race (including colour, nationality, ethnic or national origins)
* Religious or other belief (including political belief)
* Sex
* Sexual orientation
* Having or not having dependents, or
* Physical characteristics.
1. TECBAR is opposed to all forms of unlawful and unfair discrimination, including direct & indirect discrimination, victimisation and harassment. We recognise that the provision of equal opportunities in TECBAR will help all of its members to develop their full potential, talent and resources and allow us as an organisation to succeed.
2. All Committee Members are requested and required to uphold principles of equal opportunities. Breach of this policy may result in professional misconduct sanctions, and individuals may be personally liable in law.

**Section2: Scope of the policy**

1. This policy applies to Committee Members, to members of TECBAR and to pupils of members of TECBAR.
2. This policy applies to all activities in respect of: selection for membership; activities conducted; equality monitoring; complaints. This is not intended to be an exclusive list of the areas covered by this policy.

**Section 3: Implementation of the policy**

1. In order to implement our Equality & Diversity policy, TECBAR shall:
* Communicate the policy to all Committee Members and members of TECBAR by posting on our website.
* Ensure that those who are involved in assessing applicants for membership or training are trained in non-discriminatory selection.
* Ensure that adequate resources are made available to fulfil the objectives of this policy.

**Section 4: Monitoring and review**

1. TECBAR has appointed two Equality & Diversity Officers (“the EDOs”) who are identified in **Annex 1** to this policy. Together with other appropriate members of the TECBAR Committee, the EDOs will monitor the effective implementation of our Equality & Diversity Policy as well as review the policy’s effectiveness regularly.

TECBAR’s Role of the EDOs is at **Annex 1**.

**Section 5: What is discrimination?**

1. Essentially, there are 4 types of discrimination or prohibited conduct: direct discrimination, indirect discrimination, victimisation and harassment. Under the Equality Act 2010, there are 9 protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation). Discrimination because of a protected characteristic is prohibited by law. Further, we will not tolerate discrimination because of the grounds mentioned above in our Statement of Policy.

*a.) Direct discrimination*

1. This occurs when a person is treated less favourably than someone else because of a protected characteristic, for example, their race or gender or age or religion, or perhaps because of their partner’s protected characteristic. In the context of the activities of TECBAR, this could include, for example, decisions, actions or omissions such as:
* Refusing to approve an application for membership;
* Terminating the membership of a TECBAR member;
* Denying career advancement opportunities, such as training or accreditation to a Dispute Resolution list;
* Unfair allocation of career advancement opportunities; or
* Subjecting someone to a detriment.

*b.) Indirect discrimination*

1. In contrast to direct discrimination, indirect direct discrimination occurs where a provision, criterion or practice is applied *equally* to other members of TECBAR, but that equal treatment puts a particular class of persons, such as women or Muslims or homosexuals, at a particular disadvantage compared to others. If the imposition of that provision, criterion or practice cannot then be justified, it will be unlawful.
2. Such treatment may not be obviously discriminatory at first sight. It could happen if, for example, the TECBAR Committee applied a provision, criterion or practice that, in order to be considered for membership of the TECBAR Committee, candidates must be 12 years’ call or above. Such treatment would particularly disadvantage younger members of TECBAR, who are less likely to be 12 years’ call. In those circumstances, TECBAR would have to show that it was a justified requirement of the business, perhaps due to the experience required for such cases.

*c.) Victimisation*

1. There would be little point in conferring equal opportunity rights upon members of TECBAR if Committee Members were free to take detrimental action against those members whenever they assert those rights. To prevent any such detrimental action occurring, those who assert their right in good faith are protected, even if the assertion is proven false. Those who, in good faith, assist others in asserting their rights are also protected, even if their evidence is proven false.
2. If, for example, a member of TECBAR uses the Complaints Procedure to complain of discrimination or harassment, he or she must not be subjected to a detriment because they made such a complaint. To do so amounts to victimisation, which is a form of discrimination in itself.

*d.) Harassment*

1. Irrespective of whether it is related to one of the protected characteristics or grounds mentioned above, such as someone’s race, gender, age or disability, harassment (or bullying) which is unwanted, unreasonable and offensive to the recipient will not be tolerated or condoned within TECBAR.
2. Harassment may occur when the harassing or bullying behaviour is aimed at the person directly, or perhaps indirectly by being aimed at someone associated with that person, and violates that person’s dignity, or where the conduct creates an intimidating, hostile, degrading, humiliating or offensive work environment for the recipient. In an appropriate case, a one-off incident will be treated as harassment. In some circumstances, the individual Committee Member who breaches this may also be held personally liable.

TECBAR’s Harassment Policy is at **Annex 2**.

Section 6: Disability discrimination

1. TECBAR is committed to providing equality of opportunity to all those to whom the policy applies who have a disability, or have done in the past.
2. A disability within the meaning of the Equality Act 2010 is ‘any physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out their normal day-to-day activities’. Such a disability may include, but is not limited to:
* Deficiencies in sight, smell and hearing
* Progressive conditions such as cancer, multiple sclerosis and muscular dystrophy
* Severe disfigurement such as scars and skin diseases
* Limb or postural deformities, including conditions which require wheelchair use
* Mental illnesses, such as depression or bi-polar disorder.
1. Such persons who are disabled will not be:
* Less favourably treated in TECBAR because of a disability, whether it be their disability or someone else’s disability who is associated with that person;
* Treated unfavourably for an unjustified reason arising from disability; or
* Indirectly disability discriminated against without justification.
1. TECBAR will also make all reasonable adjustments required by law to remove any provision, criterion or practice, or any physical feature of TECBAR arrangements which places a disabled person, be it a Committee Member or a member of TECBAR at a substantial disadvantage to someone who is not disabled, or to provide an auxiliary aid to remove such a disadvantage. However, TECBAR can only make those reasonable adjustments if we know about that disability, or ought reasonably to know about it.

TECBAR’s Reasonable Adjustment Policy is at **Annex 3**.

1. TECBAR understands that those people with a disability may wish for this to be considered more confidentially than with other issues. In these circumstances, they should raise any such matters confidentially with an appropriate person, such as one of the EDOs, the Chair of TECBAR or another officer of the TECBAR Committee.

 **Section 7: Complaint**

1. In the case of a complaint of discrimination or harassment that cannot be resolved informally, TECBAR’s Complaints Procedure must be used. All complaints of discrimination or harassment will be dealt with seriously, promptly, confidentially and in accordance with the Complaints Procedure.