

HOUSING POLICY OF THE CAPE BAR

A. INTRODUCTION

1. In terms of clause 23 of the Constitution of the Cape Bar, the Bar Council has the following powers and duties in respect of chambers:

“(x) to allocate, regulate and control the chambers occupied by members;

(y) to require members to occupy chambers only in a building or buildings approved by the Bar Council;

(z) to lease and sub-lease premises for the purposes of providing suitable chambers for members.”

2. In terms of clauses 23(l) and 24, the Bar Council may delegate any of its powers and duties to committees. The powers and duties in respect of housing have been delegated to the Housing Committee.

3. The purpose of this document is to provide a policy for the Cape Bar in respect of the allocation of chambers; the criteria to be applied in this regard; the procedures to be followed; and related issues. This housing policy replaces the housing policy presently in existence, which was adopted at the annual general meeting of the Cape Bar on 29 April 2004.

B. DECISIONS IN RESPECT OF THE ALLOCATION OF CHAMBERS

4. Decisions in respect of the allocation of chambers are to be taken by the Housing Committee.

5. The Housing Committee shall consist of at least nine members, appointed by the Bar Council on an annual basis. Care should be taken by the Bar Council in its appointment of members of the Housing Committee to ensure that the representivity of the committee as regards race and gender be taken into consideration.
6. Subject to the requirements set out below, the Housing Committee shall determine its own procedures in respect of decisions for the allocation of chambers.
 - 6.1 Any vacancy in respect of chambers shall be adequately advertised to members, who shall be invited to apply for such chambers.
 - 6.2 Members shall be informed of the criteria to be taken into account in the allocation of chambers and invited to deal with such criteria in their applications.
 - 6.3 Decisions in respect of the allocation of chambers shall be taken by a majority of the members of the Housing Committee present and voting at a meeting of the committee convened for the purpose of taking each decision.
 - 6.4 A quorum at the meeting contemplated in the preceding sub-clause shall be five members.
 - 6.5 The Housing Committee shall not as a matter of course provide reasons for its decisions in respect of the allocation of chambers, but shall do so on request by any applicant for the chambers concerned, and by the Bar Council.
7. 7.1 Any member aggrieved by a decision of the Housing Committee in respect of the allocation of chambers may deliver an appeal to the Bar Council.

- 7.2 The appeal shall be in writing, and be lodged within two days of notification of the Housing Committee's decision, or such longer time as the Bar Council may allow on good cause shown.
- 7.3 The notice of appeal must be sent to the secretary of the Bar Council and to the chairman of the Housing Committee, and contain concise grounds for the appeal.
- 7.4 The Housing Committee may, if desired, within five days, or such longer period as the Bar Council may in its discretion allow, respond in writing to the appeal noted, furnishing a copy of its response to the member(s) concerned.
- 7.5 The Bar Council shall determine the appeal in such manner as it deems fit, but will not entertain oral representations save as it may permit in exceptional cases.
- 7.6 The Bar Council may delegate its power to its Executive Committee for the hearing of some or all appeals.
- 7.7 An appeal contemplated in this paragraph is an appeal in the wide sense, and the Bar Council or its Executive Committee shall be entitled to consider the allocation of the particular chambers afresh, taking into account any further material that may be placed before it.
- 7.8 The decision of the Bar Council, or of its Executive Committee, shall be final.

C. CRITERIA

8. Decisions regarding the allocation of chambers shall be taken by the Housing Committee or, on appeal, by the Bar Council or its Executive Committee, in its or their discretion, having regard to the following considerations:
- 8.1 Transformation, by which is meant the need to promote the interests and numbers of black and female members of the Cape Bar;
- 8.2 The comparative domestic and court seniority of the applicants;
- 8.3 The achievement of a representative mix of senior and junior members on the floor in question;
- 8.4 The financial implications of the decision for the member or members concerned, and for the Cape Bar; and
- 8.5 If applicable, the views of the remaining member(s) of the suite concerned.

D. SHARING

9. The Housing Committee (and, on appeal, the Bar Council or the Executive Committee) shall have the power to allocate chambers to more than one member, on the basis of a sharing arrangement between them.
10. In any application for the allocation of chambers on a sharing basis, due consideration should be given, in addition to the criteria described in the preceding paragraph, to the practical arrangements between the members concerned regarding their co-operation as joint occupants of the particular chambers.

E. SUITES

11. Decisions regarding the allocation of chambers within suites shall be taken by the Housing Committee or, on appeal, by the Bar Council or its Executive Committee, in consultation with the remaining member(s) of the suite concerned (and having regard to the criteria specified in paragraph 8 above).