

Independent review of bullying and harassment at the Bar

Call for submissions response form

Submissions can be sent in any format directly to the review team via BHReview@barcouncil.org.uk.

If you find it easier, you can complete any or all of the questions below and email your completed form to BHReview@barcouncil.org.uk.

Unless told otherwise, submissions will be published alongside the final report on the Bar Council's website.

Please indicate how you would like your responses to be treated (check the box):

- ☐ Published in full
- ☒ Published anonymously (the content will be published but not the name of the submitting party)
- ☐ Published with certain redactions (please indicate this in the responses)
- ☐ Kept confidential (the submission will only be seen by the review team and not published)

If you would like to submit your answers completely anonymously and confidentially, please use [Talk to Spot](#).

Name (optional)

XXXXX

Organisation (if you are responding on behalf of an organisation)

n/a

1. Reasons for bullying, harassment, and sexual harassment

- a. In your view, why is bullying, harassment and sexual harassment a persistent problem at the Bar?

I have not encountered any sexual harassment at the Bar.

I have seen barristers 'harass' each other in an adversarial context both in and out of court, in pursuance of forensic advantage on behalf of their clients, trying to rush their opponent or shake his/her self-confidence and resolve. This is usually counterproductive, but not always. A certain fortitude is required to resist over-assertive attempts to persuade, and is part of the job, but I have sometimes seen it take on a more aggressive tinge. Usually the offender has been called out by another member of the Bar.

I have seen a small minority of judges behave in a bullying way towards young barristers in court – in every instance that I can recall it has seemed to be a function of a bullying nature

in the judge – the offending judges have been equally men and women, but the persecuted barristers have more often been women than men. Most of the offending judges do not seem to have set out to bully, and in some of the instances where the offending behaviour has been drawn to their attention they have been embarrassed about it. In others, they are just bullies, whose unsuitability for the role has not been picked up or given sufficient negative weight in selection.

- b. Are there particular dynamics or working practices at the Bar which allow for bullying, harassment and sexual harassment to persist?

In a hierarchical profession, where peer dis/approval matters to advancement, my experience is that attempts to bully or 'harass' are self-defeating and self-destructive, but disparity in seniority or status [the need for advocates to keep judges onside in the best interests of their client] facilitates bullying. I have no experience of sexual harassment.

- c. Are the relevant standards of behaviour relating to bullying, harassment and sexual harassment known, clear, accessible, and sufficiently robust?

Yes. Everyone knows what each is, can recognise it when they see it, and understands that it is to be deprecated.

- d. Are the relevant standards of behaviour relating to bullying, harassment and sexual harassment sufficiently mainstreamed within barristers' professional obligations? Should they, for example, be included within the Core Duties set out in the [BSB Code of Conduct](#)

Yes. I would hope that they did not need to be spelled out in the Core Duties

2. Impact of bullying, harassment, and sexual harassment

- a. What is the impact of bullying, harassment and sexual harassment on those who are subject to such misconduct?

It would be better to ask someone who believes that s/he has been the object of such misconduct. I have not.

- b. Is there a wider impact upon barristers' staff, clients (professional and law), or the justice system more broadly?

Whenever bad behaviour is not called out, whoever witnesses it feels tainted by it, and the rule of law suffers.

3. Reporting mechanisms, resources, and sanctions

- a. What are the barriers to reporting incidents of bullying, harassment and sexual harassment?

See 2 above.

- b. What mechanisms could be put in place to mitigate any repercussions against a complainant who has reported bullying, harassment or sexual harassment?

See 2 above.

- c. The Bar Standards Board (BSB) rules place a duty on barristers to report to the BSB in circumstances where there are reasonable grounds to believe there has been serious misconduct (with an exception set out in guidance for victims). Is this duty to report known, understood and implemented in practice?

Yes.

- d. Is there sufficient support in place both for complainants and persons accused of bullying, harassment, or sexual harassment? Do the existing mechanisms appropriately balance the need for confidentiality and transparency?

See 2 above.

- e. Should there be interim measures which permit a person accused of bullying, harassment, or sexual harassment to be subject to a precautionary exclusion from Chambers, their employer, or from practice during the adjudication of a complaint?

No.

- f. Are investigations into complaints (by the BSB, Chambers or any other relevant body) concerning bullying, harassment or sexual harassment sufficiently independent, prompt, robust, and fair?

Yes.

- g. Following an upheld complaint of bullying, harassment or sexual harassment, are the sanctions imposed appropriate and fair? Is enforcement action sufficiently robust to act as a deterrent?

Yes. Yes.

4. Potential reforms to tackle bullying, harassment, and sexual harassment

- a. Are there any preventative steps which can be taken to tackle bullying, harassment, and sexual harassment? In particular, what could be done in the court room, in Chambers, and at the Bar more widely, to assist in preventing such misconduct?

Peer pressure is the most powerful tool. The ability of every barrister to speak with senior members of their chambers (with greater seniority and connections and experience) about what has happened is a powerful recourse.

The main problem is a small but extremely destructive minority of judges who are courtroom bullies. How can they be called to account? This is VERY difficult to achieve, even for a senior advocate (who is himself immune to their behaviour). Their resident judge will never have seen their offensive behaviour, because it only happens in court. They are usually charming to their staff. Only the advocates are subjected to the (often very upsetting and unnerving) bullying to which they are subjected in court.

- b. What improvements could be made to existing reporting mechanisms and support services?

I don't know.

- c. In what ways could the judiciary, clerks, chambers professionals, and others work together with the Bar to bring about change?

The Court Users Group.

- d. Are there any other comparable professions which can offer examples of best practice in tackling bullying, harassment, and sexual harassment?

I don't know.

5. Is there anything else you would like to share with the review?

No, thank you.

Please answer as many of the questions as you are able and submit your answers via email to BHReview@barcouncil.org.uk. Please note your responses will not be seen by the Bar Council unless you have opted to have them published.

The review team is not able to respond to specific concerns or reports. Please report these via the usual channel in Talk to Spot or to the BSB. [Find out more](#).