

Independent review of bullying and harassment at the Bar

Call for submissions response form

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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.

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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?

The working structure of the bar has remained largely unchanged for the last 200 years. I am guessing this is because senior members have succeeded within the existing structure and therefore see no reason for change. Whilst barristers are self employed, the reality is that the quality and availability of work is very heavily controlled by the senior clerk and senior members of chambers, especially for junior members who do not have established clients. Junior barristers are more akin to employees on zero hours contracts than truly self employed individuals. I don't believe anything will change whilst the existing structure persists: it would be better if chambers were run more like law firms, with self employed partners and junior employees. At the moment chambers cannot be held collectively accountable for harassment by an individual member. Senior barristers and Judges make up a significant proportion of the membership of old boy's clubs such as the Garrick which are

openly misogynistic. I consider this indicative of entrenched misogyny at the bar. Problems persist as there are no effective means to challenge this behaviour.

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

The Bar still operates largely on a system of patronage. I was recently approached to apply for a tenancy. There was no job description for the role, therefore no set of written standards against which I could tailor my application. It was made clear to me that references from Judges would greatly assist in my application. In the past I have been offered references from Judges in exchange for sexual favours. Therefore because pupillage, tenancy or indeed better quality work or junior counsel roles are heavily dependent on receiving favourable references from senior members of the profession, junior members are terrified of speaking out, and often consent reluctantly to sexual relations as they know a favourable reference will assist their career in a competitive market. Often the same senior members of the profession who are happy to sexually exploit junior members will later complain that those junior members “slept their way to the top.”

My first experience of sexual harassment was during “dining” whilst at bar school. Whilst the theory of young lawyers learning from older lawyers in a social setting sounds commendable, the reality was that “dining” with students was treated as a happy hunting ground for predatory older barristers. I am unsure whether the practice of dining still exists, but if so it should be abolished or reformed.

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

I think the standards are clear and well known, but all lawyers know that any rule that cannot or will not be enforced might as well not exist, so the standards are largely ignored. I think it would be helpful to tighten up on some of the definitions to reduce the scope for argument and encourage prompt resolutions.

- 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](#)

Given the extent of the problem I do think the standards should be in the core duties of the Code of Conduct.

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?

Many women leave the bar for other professions when the sexual harassment and bullying becomes intolerable. My impression is that chambers are very happy to take lots of women at the pupillage stage, where they are exploited sexually and professionally, then bully them

to leave the profession when they are reaching more senior levels to allow more men to get tenancies and for men to have access to more lucrative work. I believe this is the reason why there is a huge departure of women from the bar prior to the age of 40 and despite many women coming into the profession why the senior levels are still dominated by men. Bullying and harassment also has a terrible effect on the mental health of barristers in an already lonely high pressure job. I am very concerned about the high suicide levels in the profession.

In my experience it is women, gays and lesbians, people from ethnic minorities, and people who are state educated that receive the brunt of harassment and bullying. There remains a surprisingly entrenched attitude that the bar is the proper preserve of white public school boys. The public school boys preserve their senior positions at the bar by bullying anyone who is not like them until they leave.

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

Clients have a less diverse pool of representation at senior levels, and there is a less diverse pool of talent that reaches sufficiently senior levels to join the judiciary. The lack of diversity at senior levels discourages people from more diverse backgrounds to pursue a career at the bar.

3. Reporting mechanisms, resources, and sanctions

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

Reports are very often leaked by word of mouth and information spreads through the profession very quickly. The second it becomes known or suspected that a junior member of the bar has made a complaint against a senior member of the bar that person becomes socially radioactive and branded a troublemaker. They will typically be excluded from social events outside formal bar arrangements which unfortunately is where a lot of business is done. A report will inevitably have a very damaging effect on someone's career and reputation even if it is upheld as other lawyers will try to avoid working with someone who has a reputation as someone who makes reports.

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

It is extremely difficult to protect complainants because a lot of the business of being a barrister is done at social events which are impossible to police. I think the only way change will happen is if chambers are made to take collective responsibility for the misbehaviour of members.

- 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?

Whilst this duty is known, I fear a lot of barristers don't think it extends to bullying and sexual harassment. Where there is no serious belief that the victim will complain, there is also no

risk attached to non reporting. Where ostensibly consensual sexual activity is happening between a junior and senior member of chambers other barristers may be concerned but not report on the grounds that it is consensual. Chambers should consider implementing policies preventing sexual relations between members similar to policies enacted by some law firms.

- 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?

No. The bar still tends to operate as a loose collection of individuals pursuing their own interests. Once you've got a problem you're on your own.

- 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?

Absolutely. This would happen with almost all other organisations.

- 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?

It is difficult to see how an internal investigation by chambers into the conduct of a senior member against a junior member could ever be seen as robust and independent. Complaints made to the BSB seem unnecessarily protracted. If the barrister is sufficiently senior there is also a risk that it is hard for the BSB to be independent.

- 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?

I think the sanctions imposed are appropriate and fair. The greatest sanction is a finding against an individual that is then publicised. The damage to that person's reputation and career will far exceed the effect of any fine or censure imposed.

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?
1. Junior members of the bar should be treated more akin to employees on zero hours contracts rather than self employed given the extent that clerks and senior members of chambers are able to control their access to work
 2. Chambers should take collective responsibility for sexual harassment and bullying of members.
 3. Barristers should be under a positive duty to report instances of bullying and sexual harassment by colleagues to a body independent of the bar, anonymously if necessary, and there should be a duty to err on the side of reporting where a situation is unclear.
 4. Sexual relations between junior and senior members of the same chambers and

junior members of the bar and the judiciary should be prohibited or regulated.

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

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

In my experience the judiciary are some of the worst offenders for bullying. A system where barristers could make anonymous complaints about Judges would be helpful.

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

The solicitor's profession has done a much better job of managing bullying and harassment in the workplace. I think much of the reason for this is that solicitors act as a firm whereas the bar is still operates as a loose association of individuals. The collective effect of a claim for sexual harassment on the finances and reputation of a solicitor's firm as a whole mean that partners tend to police one another to prevent sexual harassment claims. Solicitor's firms also tend to have dedicated in house HR professionals trained in managing such situations and providing training and support. The in-house HR professional is often seen as quite independent by both the victim and accused. Barrister's chambers still seem to resist the use of HR professionals and management of barristers is left to the clerks who do not have the skills and training for this role.

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

I'm pleased that this review is being undertaken, but I'll be astounded if anything changes. The Bar has ostensibly been promoting and regulating fairness and equality at least since I was called in the 1990s, and yet even this year numerous senior members of the bar and judiciary were revealed as being members of the Garrick Club which is misogynistic and prevented senior women lawyers from joining. My impression is that senior members of the bar have learned to publicly pay lip service to the notion of equality but in private are still working to exclude women, minorities and the state educated from senior positions. I abandoned any hope of a career at the bar fairly early on largely due to the toxic attitude towards women and the state educated.

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.

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