



Confidential Report

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Response

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Timeline

Jun 12, 2024 1:46 PM	Reporter created a report
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Incident #1: Response

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

because people, particularly junior members of the profession, feel uncomfortable about complaining about fellow barristers because of the potential for social repercussions. It is a profession full of self-employed people where networking and who you know, as well as word of mouth, feel very important. It can be daunting to take a stand against someone much more senior and further along in their career than you. There are also Judges I have been in front of who have behaved inappropriately to the point that clients have noted it, but not so obvious as to make it easy to risk making a complaint and any potential fall back i.e. they have not made an obvious sexist comment but their behaviour seems to single-out/be belittling and like they know what they are doing.

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

Yes - as per my previous answer, the contrasts in seniority, that we are all working based on reputation but also our networks which for juniors are less established, and perhaps also because it is an adversarial job it can sometimes be harder to demonstrate what you know to be true; that behaviour against you is wrong and personal.

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

I feel that you do have to look for it. Because we are self employed, it is on individuals to look up policies and seek out training. I do think the bar would benefit from mandatory E&D and complaints based training as well as professional conduct perhaps annually.

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?

I think it should be in the core duties but also that there should be a mandatory requirement to complete training every year before you renew your practising certificate to ensure every barrister (and Judge) has to be reminded of the basics, the main core duties, what is appropriate behaviour and professional conduct, and how to report as well as repercussions. The CPD requirement is not a fixed number of hours so I do not think having some mandatory training like this would be onerous and it could be a webinar to be accessed as and when a practitioner can fit it in (i.e. pre recorded) at a low or no cost (given it is so important to the profession). E&D issues like sex, race, sexual orientation should also be included. It would cost to set up but then the webinars would only need tweaking for updates each year.

What is the impact of bullying, harassment and sexual harassment on those subject to such misconduct?

Awful. It impacts your whole life not just your working life and importantly, as you are self employed, it can mean a loss of income which cannot be recovered. I also feel that sanctions are not enough of a deterrent when you see even people who have acted inappropriately sexually getting in my view too minor a reprimand compared to someone forgetting to inform the Bar Council of something, for example.

Is there a wider impact upon barristers' staff, clients, or the justice system more broadly?

I would imagine that logically there is, yes, because if a barrister is being mistreated they will not be at their best. Also in terms of public perception, seeing Judges act inappropriately or treating members of the bar differently does not instill public confidence.

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

Professional development concerns, impact on network, that you won't be believed or

listened to or that someone might make a retaliatory complaint

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

anonymity, better training and standards

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

I don't think it is properly understood and also some professionals may still be too worried or scared or feel that they could be challenged as to whether there are reasonable grounds and so be too worried to do so. People who are being bullied and harassed are not always thinking in the best frame of mind and may be being gaslit by the professionals concerned into questioning and doubting their own valid experiences

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?

I think there needs to be a culture change and examples made by the regulator with stronger sanctions

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?

yes though as they might not be found to have carried out the same in the event, and they are self employed therefore would lose income, it would need to be considered carefully and how they might be able to be financially supported

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?

no - the outcomes I see on emails and when I check online do not seem to be sufficiently robust. I have been appalled at some of the responses to sexual harassment. I cannot see how anyone who has been found to have sexually harassed a member of the profession, as a member themselves, can be thought of as fit to practice at all, ever again. Yet people are

given minor fines comparative to income at the bar and very short suspensions. It does not make it seem worth the additional stress to report if that is all that will happen. How does it not bring the bar into disrepute, undermine public confidence and in fact the entire system on which we stand?

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?

No and no. See above.

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, at the Bar more widely to assist in preventing such misconduct?

I think that employed court staff should be encouraged and supported to call out inappropriate behaviour by Judges and barristers. There should be mandatory annual training for E&D, bullying and harassment and professional standards. Chambers should also look to provide their own training and ensure that their policies are regularly confirmed by members to have been read and 'signed up' to.

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

see all of the above

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

It might be helpful to have some sort of forum where these matters can be regularly discussed between these different people/bodies and action plans set with outcomes recorded.

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

To be honest I do not think many organisations have it right. However in many large organisations these matters are taken seriously as gross misconduct and the person would have their employment ceased. Chambers shouldn't be afraid to oust members who are found to have conducted themselves in such a way, particularly in serious cases, and the Bar Council should not be slow to disbar members of the profession who have particularly engaged in sexual misconduct in respect of which there is no place, nor any excuse for, at the Bar.

Other details

It would be good to ensure Judges' training on these issues are strengthened and they are encouraged to report one another. I have within the past year experienced a Judge who was awful to me and my own clients noted seemed to have been (in their view) bullying me. I am not extremely junior. But the way he did it was such that it would (I know) have been very hard to prove that it was personal or inappropriate rather than just a robust style. But there is no place for it and it undermines the result because it doesn't feel like justice for the clients. Also, as a returning mother, it doesn't feel as welcoming and could harm retention when I am already in a profession that can be difficult to be in as a mother with a lot of demand on my time personally and an incredibly stressful important job. I should be able to be treated as a respected professional by judges.

Stay anonymous?

No

Your details

No response provided

Consent for evidence downloaded and submission

Yes

Consent for publishing

Yes