

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

Name (optional)

██████████

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

Click or tap here to enter text.

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 combative nature of the job skews the perception of some as to appropriate behaviour and boundaries. It is seen as a positive to be aggressive and dogmatic often.
 - The Bar can attract a certain type of personality. They are used to getting what they want, going after it and not accepting no.
 - There is no HR department.
 - Being just a collection of self-employed individuals, within chambers there is no clear boundary between professional relationships and personal relationships. It is hard to call out behaviour therefore.
 - Intra-bar relationships depend to a very large extent on building personal relationships. This makes it harder to rebuff behaviour and call out.

- A very high premium is placed on networking and in particular networking/socialising with alcohol.
 - Almost all barristers take very seriously their duty towards their clients and their duty to represent them “fearlessly”. “Fearless” can often become “fearsome”. Anecdotally, I would add that some barristers have a tendency to forget their duty to act independently and instead can adopt the attitude/characteristics of their client.
 - Many barristers and judges are working under very pressurised conditions in multiple ways. This is not conducive to ensuring people are on their best behaviour. Instead, it becomes all too easy to be rude, short tempered and personal.
- b. Are there particular dynamics or working practices at the Bar which allow for bullying, harassment and sexual harassment to persist?
- See above.
 - I would add that the Bar can be a challenging place. In theory most barristers are independent and self employed. There is no hierarchy, save for the obvious distinction between silks and juniors. This apparent level playing field does not represent the reality. The reality is that there are subtle but important hierarchies, which are hard to name and identify.
 - Post pupillage, very young barristers can be left almost entirely to their own devices without the same support, protection and leniency afforded to pupil barristers. That said, they are readily identifiable as inexperienced. This can make them vulnerable to difficult opponents and others.
 - Being self employed and competitive, barristers tend to have a bad work life balance. Emails (and other forms of communication) are sent late at night, early in the morning, at weekends and during holidays. A perceived need to be contactable constantly means it is hard to get away or switch off from difficult behaviour.
- c. Are the relevant standards of behaviour relating to bullying, harassment and sexual harassment known, clear, accessible, and sufficiently robust?
- It will be well known to all barristers that bullying, harassment and sexual harassment is prohibited by the BSB Code of Conduct and the standards set by individual chambers.
 - It is therefore not an issue of knowing that this conduct is prohibited.
 - The issue is identifying individual behaviour as prohibited behaviour. Instead there is a tendency to employ an ‘old school’ reactionary defence that some barristers are of another generation and are past their prime and therefore not up to date with current expectations. Further, there is an expectation that barristers are robust and resilient and therefore should be able to brush off behaviour and take it in their stride. If anything, a barrister, especially a junior barrister, may well be questioned as to why they would take a so obviously career jeopardising move as complaining about another barrister and their judgement may be questioned.
- 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](#)

See above.

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?
 - Inhibited career progression with consequential financial implications.
 - Disengagement with the profession, even to the extent of leaving the Bar.
 - Poor mental health.
- b. Is there a wider impact upon barristers' staff, clients (professional and law), or the justice system more broadly?

It is very hard to be engaged, enthusiastic and performing at one's best when subject to this behaviour. This has an obvious and immediate impact on the quality of service that clients receive with real life ramifications for them.

3. Reporting mechanisms, resources, and sanctions

- a. What are the barriers to reporting incidents of bullying, harassment and sexual harassment?
 - A high risk of ramification for one's own career.
 - A perception that reporting to the regulator, the BSB, is reserved for very clear and egregious behaviour that can be very obviously evidence. Absent this, there is no 'remedy'. Complaints can be raised within chambers however most chambers do not have specialist HR staff and in any event it is very hard for chambers to take internal disciplinary action satisfactorily. The options are in practice ignoring the issue (if raised), having a "quiet word" with an individual or expelling an individual from chambers. Chambers can be reticent to address the behaviour of individuals who 1. earn well, 2. are senior within chambers, 3. with whom good or influential personal relationships have been formed and/or 4. have had an long and/or illustrious career. This is all the more so where this may have reputational repercussions for chambers itself.
- b. What mechanisms could be put in place to mitigate any repercussions against a complainant who has reported bullying, harassment or sexual harassment?
 - Confidential/anonymous reporting
 - Whistleblowing protections
 - Better education for barristers and staff.
- 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?
 - It is a very well known rule. It is probably less well understood.
 - In practice, I would say this is hardly ever implemented save for in the rare circumstance whereby the reporter considers there are no adverse risk to themselves and preferably a perceived benefit to themselves.
- 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?
- e. I am unaware of what support there is specifically in place in the event of a complaint for either party.
- f. 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.

- 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?
- I have no first hand experience of this so do not comment further.
- 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?
- It is well perceived at the Bar that the BSB is notably lenient in its sentencing in general, especially compared to the SRA, the equivalent regulator for solicitors.
- I cannot comment on enforcement action.

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?
- There should be compulsory CPD for barristers beyond pupillage and the early practitioner scheme.
There should be compulsory training for staff.
There should be education on vicarious trauma.
The need to be independent and to maintain appropriate distance from one's client and their case should be emphasised. It should be emphasised that the duty is to be "fearless" not "fearsome".

All chambers should have a HR professional designated to deal with issues.

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

I cannot comment.

- c. In what ways could the judiciary, clerks, chambers professionals, and others work together with the Bar to bring about change?
- Judges should be encouraged to identify, understand and address conduct when it happens in the courtroom
- It should be discouraged from describing barristers (positively) as 'aggressive' (and other synonyms) in profiles, recommendations, referrals etc.
- d. Are there any other comparable professions which can offer examples of best practice in tackling bullying, harassment, and sexual harassment?

I cannot comment.

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

N/A

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](#).