

Dear Sir/Madam,

Please find my submission to the Bar Council's independent review of bullying and harassment at the Bar below. I am happy for my submission to be published **anonymously**.

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?

In my experience, the Criminal Bar is a sphere obsessed with tradition and therefore how things were, and should be, done. Its culture is very hierarchical and inherently emphasises power imbalances. I experienced rife bullying and harassment during my time as a pupil, and my experience showed that it was used as a tool to overtly remind us at the most junior end of the profession of our place, that we had limited control and power, and where that control and power truly lies (the judiciary, senior barristers and clerks). Moreover, that it could be used against us if we were perceived to have stepped out of line. The prevailing attitude is still that enduring unnecessary hardship is not only expected but is an inherent part of the profession because that is what seniors and judges endured to get to where they are now, and juniors are therefore expected to endure the same. If we cannot endure this hardship, including taking bullying and harassment on the chin, then we simply don't have what it takes.

There is a deep cognitive dissonance at the Criminal Bar about this culture. It endlessly frustrated me to attend talks as a pupil about 'wellbeing at the Bar', in which senior barristers and judges would wax lyrical about the importance of treating each other kindly and how we have evolved from the days of old. But, in practice, this was very far from the day-to-day reality and these perennial initiatives appear to have changed very little.

Bullying and harassment at the Bar is also, in part, a by-product of a workforce stretched increasingly thin. Without a doubt, barristers are working immensely hard propping up a crumbling justice system. Moreover, they are often the ones taking the flack for the very same system not functioning. Whether it's a client not turning up at Court or not being produced from prison, to delays in disclosure or service of a defence statement, it is the barrister at Court, standing before the judge as the sole representative of the case, who is held individually responsible, despite much of this being beyond their control. Stress becomes inevitable when this is endured daily and when there is no opportunity to unwind or distance yourself from it, because life outside of work becomes increasingly impossible with a packed diary. As the stress grows, our patience wears increasingly thin. Combined with the culture described above, bullying and harassment of others unfortunately becomes the outlet.

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

The way pupillage is run at some Chambers – certainly at the one I attended – allows for bullying and harassment to continue. From the offset, pupils are continually reminded that they're at the bottom of the ladder, are expendable, and are seen not as people, but as mere diaries to be filled. We were characterised as workshy and prone to laziness, rather than dedicated professionals. There is little regard to our life outside of work, wellbeing, or how realistic it is to get this work done in the time given to us. If we pushed back or raised concerns, then we were made to feel we were being unreasonable or our prospects of achieving tenancy was threatened.

This was enforced through a constant reminder that every element of our lives as a pupil is heavily scrutinised. [REDACTED]

[REDACTED] We quickly got the sense that it didn't matter how good our work was or our contributions to Chambers life, that stepping out of line and not conforming (including by not dressing in the way seniors wanted us to) would threaten our chance at tenancy.

I also experienced persistent criticism. Feedback in advocacy sessions were laced with unnecessarily spiteful comments as to how we should be grateful that none of the Heads of Chambers saw our advocacy, as otherwise we wouldn't stand a chance at tenancy. My supervisor was highly emotionally volatile and would flip from acting like my best friend to treating me like a complete imbecile. They would often scold me by asking how I didn't already know the answer to a legal question I had asked. I resorted to looking things up myself, but the feedback I received at my mid-point review was that I didn't ask enough questions. I couldn't win. When asked to draft a defence statement in my first six for an incredibly complex, multi-handed, disclosure-heavy case, I was ripped to shreds for my attempt and told that I didn't have what it took to be a barrister. I struggled immensely with my relationship with this supervisor and reported my difficulties [REDACTED]

[REDACTED] no one followed up for the remainder of my pupillage.

This oppressive approach was also heavily enforced by the clerks' room. [REDACTED] we were told that we should expect to be 'run ragged'. That what was expected from us was '100% dedication, no slacking off. Spread yourself thin, do what you need to do' and if our attendance notes were later than 24

hours then [REDACTED]

We were told by the clerks that we should raise issues with them but were dismissed and threatened when we did: [REDACTED]

[REDACTED]

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

No, they are not. I wasn't made aware of them during my time at the Bar and, given the treatment of pupils at our Chambers, it didn't seem as though the clerks or other barristers were either.

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?

As above, I don't believe they are. Given that this is a continuing issue, I would support them being included within the Core Duties and BSB Code of Conduct. However, there also needs to be sufficient ramifications for when these are broken, particularly when there is clear evidence of attempts having been made to raise issues.

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?

The persistent bullying I experienced meant I constantly struggled with my mental health throughout pupillage. Despite this, I was lucky to get tenancy at said Chambers. Nonetheless, I had already reached my breaking point and was only a tenant for a few months before falling into a mental health crisis that forced me to take time off work for 6 months. I came to the realisation during this time that returning to the Bar meant seriously risking my wellbeing. I was so scarred by my experience, that - after years of dogged hard work and personal investment - I not only left the Criminal Bar, but the law

altogether.

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

The prevalence of unchecked bullying and harassment at the Bar ensures that it is an unhappy place to work. In turn, I have no doubt that it plays a significant part in the critical retention issues the profession has experienced for years. At my previous Chambers alone, only [REDACTED] remain as tenants. Many of those have left the Bar altogether and sighted issues with bullying and harassment for doing so.

3. Reporting mechanisms, resources, and sanctions

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

The people perpetuating the bullying and harassment often have a significant say over our tenancy decision. Sometimes, they are also the [REDACTED] to whom we are supposed to report these incidents. This overlap is a significant barrier to reporting: there is no way for us to safely feedback our experience to a trusted, neutral party, without fear of repercussion or having our chances at tenancy threatened. Even when reporting to independent mechanisms outside of Chambers, we feel we are unable to be candid for fear of the ramifications that would follow if we were honest. As a result, even when we report, it feels as though we are only able to vent about our experience and nothing tangible can be done about the bullying itself.

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

Secure and anonymous reporting mechanisms are needed, as well as an assurance that the identity of the complainant is kept confidential as far as possible during the investigation and afterwards. There is also a need for investigations to be entirely independent, either by way of a third-party body such as the BSB/Bar Council or a neutral Chambers team (entirely separate from the Pupillage Committee) to ensure complaints are treated impartially and to reduce the risk of bias or retaliation. It would also help for Chambers to have a clear anti-retaliation policy, with enforceable consequences for retaliatory behaviour. Complaints should also be regularly followed up, including regular contact with complainants to not only ensure that no retaliation has occurred but to also check on their wellbeing.

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?

I believe this duty to report is known, understood, and implemented. The difficulty I experienced was that no individual incident of bullying or harassment necessarily met the high threshold of being 'serious misconduct.' Rather, the bullying and harassment constituted small, daily interactions and are an engrained part of Chambers's/the Criminal Bar's culture.

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?

I'm unable to speak to this from experience. The times I did complain about bullying and harassment were entirely ignored and went nowhere. However, I appreciate that I only raised this within Chambers and didn't utilise independent reporting mechanism.

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?

While this may be effective in protecting the complainant and establishing a zero-tolerance policy for bullying and harassment, there is also a need to ensure fairness and due process. A precautionary exclusion may be unduly harsh and presume guilt for someone who has merely been accused. However, this could be assessed on a case-by-case basis with established thresholds as to when a precautionary exclusion would be appropriate.

However, there should nonetheless be interim measures that protect the complainant and the integrity of the workplace during the adjudication process. This could include modified work arrangements and a no-contact policy, to ensure that the complainant and accused are kept separate and have minimal, if any, interaction.

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?

N/A

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?

N/A

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?

A zero-tolerance position on bullying and harassment must be advocated, established, and enforced. This includes seniors, barristers, clerks, and the judiciary practicing this in their everyday interactions. There must be a process to hold them accountable for failing to ensure a safe and respectful minimum standards environment at the Bar.

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

There needs to be greater awareness of existing reporting mechanisms and support services. I wasn't made aware of reporting mechanisms outside of my Chambers while I was a pupil.

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

First and foremost, all these stakeholders must collectively acknowledge and accept that the issue lies within their ranks. Bullying and harassment persists within the legal profession because they are perpetuated by all these groups. This creates an often impossible situation where victims often have nowhere to turn to report such incidents.

Second, more must be done to educate legal professionals about what constitutes bullying and harassment, through the presence of independent experts. Moreover, there is a need to develop model policies and best practice in Chambers and the Courtroom, including clearer policies and guidelines to prevent and address bullying and harassment in these spaces, and encouragement to adopt best practices that promote respectful behaviour.

These stakeholders could also better support the Junior Bar, by providing well-functioning mentorship and support networks. More can also be done to address power imbalances, so juniors feel safe to report incidents. Pupils and junior barrister must be treated as competent and hard-working professionals, not as underlings who must learn to tough it out.

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

N/A

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

N/A

Kind regards,