



## **Lincoln's Inn Response to the Bar Council Review on Bullying and Harassment**

Lincoln's Inn takes equality, diversity, and inclusion at the Inn and in the profession extremely seriously. Like the Bar Council, we are concerned about the prevalence of bullying and harassment within the profession and supportive of the efforts to eliminate these behaviours.

We carried out our own survey of members to understand if the experiences of barristers, as reported in the Bar Council working lives survey, were mirrored within the Inn. We were therefore dismayed that 12% of respondents to our survey had experienced or witnessed bullying, harassment, discrimination, or another form of unwelcome or unacceptable behaviour while using an Inn service or attending an Inn event in the past five years. Since the survey, we have published our own code of conduct for members and we are working on other initiatives to improve inclusive behaviour, such as training, mentoring, and our own anonymised reporting mechanisms to sit alongside our formal complaints process.

In this response, we have focused on the experience of our members in their professional lives but have included insight gained from our survey of experiences at the Inn where appropriate. Our response is based on informal feedback from members and employees of the Inn, received over many years. The references to barristers, judges, clerks, and chambers do not apply across the board; many individuals and organisations act in exemplary ways.

### **Reasons**

The hierarchical nature of the profession can expose those in junior positions to mistreatment, whether intentional or not. While most senior barristers, judges, and clerks behave appropriately, some may not fully recognise the power dynamics at play. People often assume that bad behaviour will be challenged by the recipient, underestimating the courage needed to do so.

Some senior barristers and judges seem to believe that, because they faced bullying behaviours early in their careers, it's acceptable to perpetuate such behaviour or to dismiss complainants as being overly sensitive.

Some barristers have reported feeling unsupported by their chambers when raising concerns, citing a lack of willingness to challenge those seen as more powerful in chambers, such as senior members and clerks, or a lack of independence and collective responsibility in chambers processes on reporting, grievance, and disciplinary.

In more traditional work environments, there are usually clear workplace standards, such as statements of purpose, value statements, and policies and processes that clarify behavioural expectations. HR advice is often available to managers and employees. Even in these settings things go wrong. However, as chambers are looser associations than traditional workplaces, they are less likely to have such a structured approach. Many chambers do have clear organisational norms and expectations of their members, but others seem to have a more individualistic approach.

Changing organisational culture is always difficult and takes time. It is even harder in settings where the individuals do not see themselves as collectively responsible and

representative of their organisation. Our experience of members who behave contrary to our expectations is that they quite often do not appreciate that their behaviour reflects on the Inn as well as themselves. The same is likely to be true in chambers.

## **Impact**

Feedback from those who have experienced bullying and harassment indicates that these behaviours can have a deep and lasting impact. Victims often report a significant decline in their confidence, a loss of interest in participating in certain professional activities, and in some cases consider leaving their chambers or even the profession altogether.

Beyond the immediate impact on the individual, bullying and harassment have broader implications for the profession. Research by the Bar Council and others show that women, disabled people, those from ethnic minority groups, and those from the LGBTQ+ community experience higher levels of bullying and harassment. When barristers from these groups disengage or leave a chambers or the profession as a whole, there is a loss of diversity that can further perpetuate an exclusive and negative culture. This has the potential to discourage people from joining the profession and harm its reputation.

## **Reporting**

Fear of reputational damage seems to be one of the biggest barriers to reporting. Many people seem to feel that reporting these types of behaviours will have a negative impact on their career prospects. They believe that they will be labelled as trouble-makers or seen as weak and that this will follow them throughout their careers. While a negative impact on a person's career should not occur, we can see why this concern persists. The Bar is a small profession with lots of interconnections and gossip can travel far and fast. Another reason regularly cited for non-reporting is a desire to move on from the experience. Those who experience it do not want to have an investigation hanging over them and the prospect of having to relive the experience months or even years down the line.

In addition to the potential impact on the complainant, it might also be the case that the potential impact on the alleged perpetrator is a factor in under-reporting of relatively minor incidents. Those who experience low level bullying or harassment may only want the behaviour to cease but know that raising the issue could be career-ending for the perpetrator. In a traditional workplace an informal process is usually the first step, but the BSB requires all cases of harassment to be reported to it. This can prompt a lengthy and stressful process for everyone involved, with complaints in the public domain if they go to a tribunal. We are not suggesting that this is wrong: handling such matters with confidentiality also has downsides and the public has an interest in barristers' conduct – but the absence of a process that does not involve the regulator could be a factor in low reporting rates. The high likelihood of regulator involvement might also give perpetrators a greater stake in denying the behaviour.

We think that the reporting duty is reasonably, but not universally, known, understood, and implemented. However, while we have no data on this, we would be surprised if the rate of reporting comes close to the rate of bullying and harassment reported in the working lives surveys.

This Inn's survey of members showed that 12% of respondents had experienced or witnessed bullying, harassment or discrimination at the Inn but we tend to receive very

few complaints. Only 13% of those who had experienced or witnessed these behaviours, or 1.6% of all respondents, said they had reported it. This aligns with our data on complaints as we generally only receive one or two complaints on member behaviour per year. Examination of complaints under our code of conduct can be hampered by complainants' desire to remain anonymous, even to the Inn's staff and the panel conducting the examination.

While the Bar Council has published guidance on handling complaints in chambers, there does not seem to be training or a helpline to support this. Most chambers do not employ HR professionals who in an employer context would provide advice and support on conducting grievance and disciplinary investigations. This may be an area where the Bar Council could provide some form of support to chambers.

BSB investigations take far too long to conclude. The BSB website notes that matters normally reach the tribunal stage within 12 months but can take longer. This does not include the time taken for the tribunal process to conclude, taking into account initial list of the hearing dates as well as potential adjournments. For instance, in a recent well-publicised case, Henry Hendron was convicted in the criminal courts in March 2023 and sentenced in June 2023 but the decision of the tribunal was not reached until July 2024. It would seem that a barrister sentenced to 14 months' imprisonment for possession of drugs charges would be a fairly straight-forward case for the BSB to investigate and for BTAS to dispose of.

The amount of time it takes to resolve complaints to the BSB leaves both sides in a complaint with the matter hanging over them for a significant period. This invariably has a poor impact on their mental, and potentially physical, health. This may result in an impact on their ability to work and so cause them economic hardship.

We agree that the ability to take interim action against some of those accused of bullying or harassment could be useful. However, the use of interim action needs careful consideration. It may suggest a presumption of guilt and could become a knee-jerk reaction. In the employer context, suspension is a valid tool, but its use should follow an initial examination of the matter and an analysis of the risks of not suspending someone. Employers must be clear that suspension is a neutral act and suspended employees receive full pay. A self-employed barrister who is suspended from practise would lose their source of income. If they then had to wait months for the matter to be resolved, the impact could be significant.

## **Potential Reforms**

One thing that was clear to us from our survey was the need for more training and awareness-raising activity. Not just in the obvious areas but also giving people the tools and techniques for supporting others and challenging problematic behaviours. We are looking at training on allyship and being an effective bystander as part of our EDI training for members.

It is important that chambers not only have the appropriate policies but also have the right arrangements in place to give effect to their policies. Therefore, more support for chambers on the practicalities of reporting mechanisms, complaints handling, and support systems could be helpful, such as training and access to HR support and advice.

As set out above, the length of time to conclude BSB investigations and disciplinary processes may be a contributing factor to low reporting rates. Improvements in the timeframe could improve reporting rates.

Chief Chancery Master Shuman, Chair of the EDI Committee  
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