

Independent Review into Bullying, Harassment, and Sexual Harassment
at the Bar

Personal response at 26th September 2024

Questions

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?

- i. My personal experience is as a woman from an ethnic minority background working as a self-employed barrister for over 20 years duration. For most of my career I have practised at the Criminal Bar. I have not provided names in relation to below. I have carefully considered whether to even respond as an individual when requested to do so by the Review. The reason being that speaking out about harassment or bullying has unfortunately in my experience directly led to repercussions months and even years after events. I have recently moved away from the environment of physically working within chambers and from first instance Crown Court work on account of the obstacles faced from bullying, harassment and racism.
- ii. I don't experience bullying or harassment from senior members of the judiciary, the Higher Courts, my Instructing solicitors, or any of my clients. I thrive on the intellectual stimulation and actual work. However, the levels of toxicity, relational aggression and racist overtones are too much even for me now in first instance work. The impact from the level of bullying and harassment is such that doors are not merely closed to me, but rather slammed in my face. My reason for providing a personal response is a desire for a better working environment at the Criminal Bar, particularly for Black and Asian women working in first instance (Crown Court) work in criminal law.
- iii. Racism at the Bar is a different 'beast' from that which I have experienced living through a genocide and physical racist violence in the 1980's.
- iv. The ecosystem of individual chambers operate like mini fiefdoms rather than businesses. There are many barristers I do believe who wish to focus on the essence of

the job, namely a very fulfilling and intellectually satisfying vocation. It's simply that those individuals are often not at the helms of power and decision making in chambers environments. The energy exerted by some individuals in chambers environments revolves around political machinations, backstabbing and braggadocio. And this seeps into the criminal justice system in everyday practice in the Crown Courts.

- v. The difficulty is the wall of silence and turning a blind eye to acts of bullying, harassment and sexual harassment that has existed and continues to exist. The reason why it persists and the same 'individuals' carry on the same conduct upon different individuals is because nothing is done and there is a prevalent and persistent system of enabling the perpetrators by others. Individual characters are not stopped and the problems are merely brushed under the carpet. In one instance, I reported a senior clerk for calling me a 'cunt' and blocking work being sent to me directly from solicitors - and the approach of the head of the crime team who was a senior ethnic minority woman was to endorse this behaviour. I don't blame her as the clerks room were ultimately her work source and income providers. What disappointed me on leaving the chambers was being informed that this senior female barrister had told individuals that the issues I raised about discriminatory conduct should not be pursued. That individual senior clerk's impact on my practice was such that I almost had to leave the Bar entirely, as my earnings had dropped to around 33% of what I earned prior to going to that chambers. I'm not from a family of barristers or lawyers and my degree is from Oxford University. I took out a loan of £30,000 directly on account of the actions of that chambers in order to survive in the industry. But what hurt most wasn't any financial prejudice, but rather the concept that the senior female barrister and senior criminal clerk were overjoyed to have caused me that level of detriment, to the point of almost leaving the industry entirely. The difficulty I am unable to resolve is why discrimination of any kind is thought to be good for 'business' in chambers. Why is it ok in a chambers that prides itself on equality to have women barristers earning just over 50% of what male barristers do and how is that a sustainable model in any business environment?
- vi. Individuals who attempt to assert their rights by explaining or reporting bullying, harassment and sexual harassment in my experience are made an 'example out of' in a chambers' ecosystem. They are driven out of chambers or 'starved' of work, employment opportunities or promotion.

- vii. The dilemma for all self-employed individuals who have witnessed harassment and bullying, is that it would not benefit their career at the Bar or advancement in the Judiciary to take a stand. Instead, it is easier and financially beneficial for them to turn a 'blind eye' and become an integral part of the enabling ecosystem. A troubling development is the wheeling out of a senior member of chambers (often of the same gender) to make the reportee 'toe the line.' There are patterns of bullying within each individual chambers. In some, work is not distributed on the basis of merit nor on an equal basis, but rather in line with who is in favour with the clerks and the senior silks in chambers.
- viii. The difficulty is that the repercussions are never short term. I was surprised that years after leaving the chambers where I experienced the worst discrimination that solicitors were called up by individuals in that chambers demanding I be taken off a murder junior brief and even that the senior criminal clerk still called up my clerking room to 'check up' on me.
- ix. Often the term 'collegiate' is used for the Criminal Bar. The reality when it comes to relational aggression faced is more akin to a group of 'mean girls' operating to keep other women quiet and enabling the source of bullying to continue in the same vein as has operated for decades within a particular set.

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

- i. There is a difficult and antiquated dynamic of the clerking system at the Bar. Not much has changed since John Flood wrote 'Barrister's clerks: the Law's Middleman' back in 1986, particularly in relation to the gender and background of London criminal clerks. The senior clerks hold sway and have favourite counsel within chambers. Frankly once clerks hold a grudge, they will do their utmost to destroy your practice.
- ii. Language used is so prevalent, persistent and unchecked that it has become meaningless to the clerks using it. Be it crude sexual language, groping, objectifying in relation to women. For instance, a senior criminal clerk who openly ask other clerks do you have any 'pretty Asian girls at your chambers?' Or being approached in a professional networking evening event by a member of the clerking team calling me 'hot.'

- iii. The worst was at a solicitor's function in London where a man came up to me and said he 'fancied Pakis.' I am sick and tired of putting up with sexist abuse and ogling from men in the profession with a racialised slant. By detaching myself from Crown Court work and the environment of working physically at a chambers, I have improved the quality of my life vastly.
- iv. The specific individual lecherous silks that exist in the profession are well known for their antics. From having to remove a male silk's hand from touching my thigh in a murder trial to being ogled at in Crown Court public areas like a piece of meat. I do not receive this type of conduct from my instructing solicitors or clients at all, nor by academics in the field of criminal law or the senior judiciary.
- v. The thing that tipped me over the edge in relation to not doing first instance work in the Crown Court anymore related to when I noticed my complete change of behaviour - from being a confident person to walking on eggshells whilst working on a case with a male silk. As a woman I simply didn't feel safe being in the same room as them. Being shouted at in a belittling way in a court by them was something I easily handled and frankly at the Bar you get used to dealing with. I understand some people may be insecure, sleep deprived or anxious and as a professional I will adapt and make compensation for any barrister lashing out (be they working on my team or not) who are perhaps just facing a stressful situation. But what concerned me is when I started to take measures to ensure I would not be too close physically to them, for example sitting in a placement with my back and my side to a wall- meaning only one side was open for them to be near. One time they blocked my access to leaving a room. When I did leave, I hurtled so fast out of the Crown Court that I think even the prosecution silk was slightly taken aback.
- vi. The Criminal Bar is an unchecked profession that holds a lot of power. There is a very different and covert form of racial hierarchy that appears to operate in my experience towards women of colour. Asian women earn 53% on average of what Asian men do at the Criminal Bar. Asian women and Black women are the lowest earning cohort by a long way in the published Bar council statistics. This isn't because Asian and Black women are less capable at their jobs, or because of solicitors not choosing to instruct them. In my view unfortunately it genuinely is pure racism on account of specific senior clerks. There is never any recompense or sanction, because it is carried out in such a

covert and institutional fashion. There is a fabulous wall of silence, which operates to gaslight you if you dare raise any matters.

- vii. Sometimes people think that they can target you on account of those vulnerabilities – and often what is heartbreaking this can come from individual ethnic minorities whom you thought would be your allies in your workplace. Examples such as stalking people on Whatsapp, trying to contact a clerks room to find out where you are, messaging my phone at 2am in the morning or late at night, trying to find out where I live because they want to deliver evidence to my house rather than through simply sending it to my chambers workplace.
- viii. The most confusing workplace dynamics though I have found in the last 20 years are those of relational aggression between women. Because women are more vulnerable in terms of earning less than men at the Criminal Bar, they are often pitted against each other.

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

- i. There are plenty of policy documents and standards of behaviour widely available. Well-meaning, if not patronising literature such as ‘Wellbeing Wednesday’ disseminated around chambers. The issue isn’t with policy documents, or written literature about bullying and harassment. It is that standards of behaviour and basic common decency are not enforced within individual chambers and are very different from what would be tolerated in normal business working environments.

- a. 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?¹

¹ [BSB Code of Conduct](#)

- i. It's not about published documents, or a code of conduct. It is a defensive mentality and refusal by individual chambers to accept that they are part of the problem – 'it is others, not our set.'
- ii. I sent round a 'Race at the Bar' report that had been published by the Bar Council to my chambers. A senior white female member of chambers met with the senior clerk in the evening outside of chambers at a football match and suggested to him I should be reported to the management of chambers for sending around this Bar Council report on race equality matters. The senior woman is not a member of management. The report is not written by me. In fact it's a Bar Council published report talking about the difficulties faced by ethnic minorities and the earning disparity. Yet the result of even disseminating such a document was that a senior woman thought I should have been chastised. There is an appalling lack of understanding of what racial equality let alone indirect discrimination means.

ii. 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?

- i. The impact on an individual's practice is often devastating. Unfortunately distribution of work by the clerks is so intertwined with harassment and bullying. If you complain, your practice will be decimated.
- ii. The ecosystem of chambers is not fit for purpose, let alone self-regulation for serious matters like harassment and bullying. It is humiliating as a person of colour in my 40's to be shouted at in a workplace and be told by a senior clerk that 'I may not be given work from chambers, but at least they don't take my work.'
- iii. I'm very tough mentally and handled physical and verbal racial discrimination from a young age. I am the type who has boarded up windows when someone put a brick through my window and still sat exams the same morning. There is nothing weak physically or mentally about me. Sometimes it is one final straw though, and this for me was recently when a female colleague who happened to be of white ethnicity told me "you look like you work on London underground," and my chambers took painstaking lengths to tell me I couldn't sit at a desk to work. I still am contractually a member of chambers, but I now no longer physically even go into the premises. I have rented a private commercial office space externally.

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

- i. I understand that insecurity and fear are elements deeply embedded within the psyche of the criminal barrister – worrying about where their next piece of work is coming from, worrying about when the next promotion is coming, being on the right side of the judge, being 'in' with the clerks. And this often is a factor in increasing relational aggression in the workplace and envy or hostility to others. But the worrying aspect is those who are subjected to harassment and bullying often simply leave the profession completely. This is particularly concerning in relation to ethnic minority women practising criminal law who do not choose to become part of the 'enabling ecosystem' and take a stand against discrimination and bullying.
- ii. I was asked in the past to be on a panel at an event for a subject area I am known for. Firstly I was asked to chair the event. I agreed. Then I was asked not to chair, and not to speak. When I asked politely what would I be doing on the panel then, if not needed to speak or to chair. The person explained 'just to add a bit of colour.' I removed myself from that professional organisation the very next day. The impact is that it makes individuals move away from such professional organisations.
- iii. I have never faced bullying, harassment or discrimination from any of my clients whom I represent, nor current Instructing solicitors. Nor am I treated as a second class citizen in any other walk of my life personally.

iii. **Reporting mechanisms, resources, and sanctions**

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

- i. A key technique used and barrier to reporting matters, is the deliberate wall of silence that often builds within a chambers.
- ii. Individual complainants often do not want to have to go through a formal process of reporting someone, they just want the behaviour to stop.

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

- i. Increased use of confidential hotlines.
 - ii. Confidential hotlines (or ‘SPOT’ system) in relation to concerning conduct by individual clerks experienced by barristers. Again completely manned by body wholly external to any clerks.
 - iii. Recording both audio and visual in court rooms at all times. Judges not to have any discretion in switching off recording equipment at any stage.
-
- 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).² Is this duty to report known, understood and implemented in practice?
 - 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. 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?
 - 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. Investigations carried out internally within chambers are riven with potential conflicts of interest. Especially if for example a barrister is determining whether a clerk may have acted inappropriately, and at the same time is dependent on that very clerks room for work.
 - ii. In reality, the chambers ecosystem way of resolving problems concerning harassment or bullying at the moment is to attempt to silence the complainant to try and make it go away, or to freeze out the individual making the complaint financially/workwise/isolating them until they effectively leave chambers.

- 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?

iv. 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?
 - i. Recording equipment - audio and visual in all court rooms. There are several female Judges who are adept at relational aggression. I have seen them use facial expressions to demean women of colour in the court room, including black women in the public gallery and get away with it because there is no visual recording.
 - ii. If the public were aware of some of the facial expressions demonstrated towards ethnic minority women at the Bar by some individual Crown Court Judges in London, they would be astonished. This is not a comment of all Judges, but a minority that are repeat and well known offenders. There is one female Judge who is known for passive aggressive antics. She has in the past asked the court clerk to switch off the transcription machine to bully counsel. This means there would then be no recording of what she has just said. This Judge oddly targets women of the same ethnicity. One example being a recent woman in tears in the robing room in a London court after yet again bullying antics from this same Judge. This Judge is held up as a bastion of diversity. Whereas the exact opposite in practice takes place with the person defined as the oppressed has instead become the oppressor. Evidence needs to be collated for repeat offenders like this.
- b. What improvements could be made to existing reporting mechanisms and support services?

- c. In what ways could the judiciary, clerks, chambers professionals, and others work together with the Bar to bring about change?
- d. Are there any other comparable professions which can offer examples of best practice in tackling bullying, harassment, and sexual harassment?
- e. Is there anything else that you would like to share with the Review?