



JUDICIARY OF
ENGLAND AND WALES

Response to a call for evidence by the Bar Council's Review into Bullying, Harassment and Discrimination at the Bar

Submitted on behalf of the Judiciary of England and Wales

Introduction

1. This document responds to a call for evidence by the Bar Council's 2024 Review into bullying, harassment and discrimination at the Bar, chaired by the Rt Hon Harriet Harman KC (the "Review").
2. The Judiciary welcomes the Review. It hopes the Review will make a valuable contribution to the wider body of research, analysis and discussion aimed at developing a more inclusive and diverse legal profession and eradicating bullying, harassment and discrimination at the Bar.
3. The Judiciary depends on the legal professions, including the Bar, as the "pipeline" for future judicial appointments. The Judiciary shares an interest in ensuring that the Bar, alongside other branches of the legal profession, offers equality of opportunity for all.
4. The Judiciary understands the Review will look at bullying, harassment and discrimination at the Bar. Pursuant to the Constitutional Reform Act 2005, the responsibility for judicial conduct lies with the Lady Chief Justice and, to the extent that matters may be raised by way of complaint to the Judicial Conduct and Investigations Office ("JCIO"), the Lord Chancellor. It is understood that the Review will respect the independence of the Judiciary and the constitutional boundary which exists between the Judiciary, on the one hand, and the professions from which judicial office holders are drawn, on the other.
5. The purpose of this response is to inform the Review, by way of contextual background, about the steps taken by the Judiciary to promote a more inclusive workplace culture. The Judiciary takes the view that unacceptable behaviour, such as bullying and harassment, is most effectively addressed by creating a culture of tolerance and inclusivity.

Bar Council's 2023 report

6. The context for the Review, set out in the Review's Terms of Reference ("ToRs"¹), was the [Bar Council's December 2023 Report](#) entitled "Bullying harassment and discrimination at the Bar", which evidenced "bullying and harassment, as well as inappropriate and undermining behaviour, which needs to be addressed"². The 2023 Report identified themes from the Barristers Working Lives Survey 2023 as well as anonymous "Talk to Spot" data from 2019-2023³. Those themes spanned a wide range of behaviours and the 2023 Report stated in summary that "there is clear evidence that harassment, bullying, inappropriate and undermining behaviours are still an issue for the profession"⁴.
7. According to the ToRs, the purpose of the Review is to make recommendations for action that will reduce the levels of bullying, harassment and sexual harassment at the Bar.
8. The remit of the Review therefore appears narrower than the issues raised in the Bar Council's 2023 Report. The Review's focus is on bullying and harassment (sexual or otherwise). Not all the behaviours identified in the 2023 Report amount to bullying or harassment (of either type). Many appear to fall into a category of behaviour which is undoubtedly inappropriate and may seem exclusionary, but would not meet the definition of bullying and harassment set out in the Review⁵.
9. That is an important distinction to have in mind when considering this response. Much of the Judiciary's work, detailed below, is focussed on achieving a more inclusive workplace culture. Recent focus has been on helping judicial office holders⁶ to recognise and where appropriate to challenge "micro-aggressive" behaviours. These tend to be relatively minor incivilities of language or conduct, which can be the product of ignorance or insensitivity. The Judiciary acknowledges that such behaviours, although individually minor, can have a cumulative effect and can cause substantial harm. However, taken individually, they are at one end of the spectrum of inappropriate or unacceptable behaviours, with bullying, harassment and discrimination at the other end.

¹ Not available on the Bar Council's website but sent under separate cover by the Review Team

² First paragraph of the Chair's Foreword

³ Summary and Recommendations, third paragraph

⁴ Summary and Recommendations, fifth paragraph

⁵ The definitions used by the Review are as follows, with added emphasis:

"Bullying means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means **intended to** undermine, humiliate, denigrate, or injure the recipient (ACAS).

Harassment is as defined in s 26 of the Equality Act 2010 as being unwanted conduct which has the **purpose or effect** of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."

⁶ A term which denotes all those in judicial office, whether they are legally qualified or not. Some judicial office holders are not legally qualified. It is therefore more accurate, for present purposes, to refer to "judicial office holders" than to judges.

10. The Lady Chief Justice met with the then Chair of the Bar Council, Nick Vineall KC, in October last year to discuss the findings of the 2023 Report and share the approach taken across the Judiciary, details of which are set out below.
11. An internal statement released on 7 December 2023 in response to the publication of the 2023 Report confirmed that the Judiciary would consider the 2023 Report alongside the results of the Judiciary's own "Judicial Attitude Survey" (as to which, see below), that the Judiciary takes any accusations of bullying and harassment seriously, and that all judicial office holders are expected to treat others with dignity and respect.

Quality of Bar Council data

12. The data which underpins the 2023 Report is anonymous and self-reported. The Review will already be aware that there can be a difference between an individual's perception of how they were treated and an objective assessment of that treatment. It is also important to note the context. The courtroom is a demanding and sometimes stressful place where events unfold quickly and sometimes unexpectedly. Sometimes things are said or done which might not have been said or done at all, or might have been said or done differently, if the person saying or doing them had had time to reflect. This is true for judicial office holders and court users alike.

The Judiciary's approach

13. In November 2020, the first [Judicial Diversity and Inclusion Strategy](#) was published (the "D&I Strategy"). Supporting and building a more inclusive and respectful culture and working environment is one of the core objectives of the D&I Strategy. To achieve that objective, there is a continuing programme of work. A range of targeted mechanisms provide routes to challenge inappropriate behaviour, support for those experiencing such issues, and training to promote positive behaviours and equip judicial office holders with the tools and confidence to handle exclusionary behaviour when it is experienced or witnessed.
14. At the same time as the D&I Strategy was launched, the Judicial Health and Wellbeing Strategy ("Health and Wellbeing Strategy") was introduced. It too contains the objective of building an inclusive culture across the judiciary, with a focus on the wellbeing benefits of building an inclusive culture and the importance of creating a healthy workplace for all. To that end it encourages judicial office holders to raise issues when they arise and confirms that bullying, harassment and discrimination will not be tolerated within the Judiciary.
15. On 1 June 2021, the then Lord Chief Justice (Lord Burnett of Maldon) and the Senior President of Tribunals (Lord Justice Lindblom) published a statement on the judicial intranet addressing bullying and harassment in response to certain press reports. It said this:

“...We, and the senior judiciary as a whole, are absolutely clear that bullying, harassment and discrimination are totally unacceptable, whether towards another judge, tribunal member or magistrate, a member of staff or any participant in a court or tribunal hearing.”

It went on to describe the routes available for complaint and emphasised the need to foster an inclusive working environment, as presaged in the D&I Strategy and the Health and Wellbeing Strategy.

16. In July 2021, the Lord Chief Justice (Lord Burnett of Maldon) and the Judicial Executive Board which supports the LCJ (“JEB”) commissioned independent qualitative research from external researchers to gain a better understanding of inclusion, bullying, harassment and discrimination issues as they affected the Judiciary. JEB commissioned this work to inform action on inclusion and the Judiciary has been kept informed of action being taken as a result of the research findings.
17. On 19 January 2023 the Judiciary’s [Statement of Expected Behaviour](#) was published. It applies to all judicial office holders and sets standards of behaviour with other judicial office holders, staff and users. The Statement emphasises the individual’s responsibility to help foster a positive working environment. Specifically, it requires judicial office holders to:
 - treat others fairly and respectfully;
 - be mindful of their authority we have and be careful not to abuse it;
 - be aware of how their words and behaviour can affect others;
 - remain patient and tolerant when encountering difficult situations;
 - act professionally and courteously, including under pressure, and avoid shouting or snapping;
 - aim to ensure that no one in a hearing room is exposed to any display of bias or prejudice;
 - build effective working relationships with and support judicial colleagues and staff;
 - welcome and support new colleagues; and
 - be open to feedback if they have done something that may have caused discomfort or offence.

The Statement encourages judicial office holders to raise concerns if they see or experience bullying, harassment, discrimination or any other behaviour that falls short of the expectations. It refers to the routes for raising concerns: either by informal means or more formally by using the Judicial Grievance or whistleblowing procedures or making a report to the Judicial Conduct Investigation Office (“JCIO”).

18. The [Guide to Judicial Conduct](#), updated in July 2023, reflects and incorporates the Statement of Expected Behaviour. The Guide assists judges, tribunal members, coroners and magistrates, in relation to their conduct and is also

applicable to retired judicial office holders if they continue to exercise judicial functions.

19. The Guide to Judicial Conduct and the Statement of Expected Behaviour are also surfaced and embedded, as appropriate, through relevant Judicial College training courses.

Training

20. The Judicial College, which fulfils statutory training responsibilities on behalf of the Lady Chief Justice, Senior President of Tribunals and Chief Coroner, developed different strands of inclusion training to focus on promoting a positive and respectful working environment for all who work in and with the Judiciary and, as part of that, understanding, identifying, and responding to exclusionary behaviours.
21. Change leadership and inclusion training for leadership judges has supported them in their responsibility for fostering an inclusive working environment in which judicial office holders from all backgrounds can thrive. Inclusion training for the senior judiciary promoted role-modelling of expected behaviours. Both have informed subsequent leadership discussions and local initiatives. The Judicial College provided just over 350 places on change leadership and inclusion training for the leadership judiciary between November 2022 and May 2023, and over 200 places on inclusion training for the senior judiciary between January and June 2023.
22. From April 2023, inclusion training was rolled out to the wider salaried and fee-paid courts and tribunals judiciary and tribunal members. For judicial office holders new to role, the training was delivered as part of the faculty induction seminar which those judges are required to attend. For judicial office holders already in post, the training was included within their mandatory continuation training. In total, the inclusion session was delivered at 163 Judicial College courses during the 2023/24 training year.
23. The 2024-25 training year will include inclusion training within the faculty induction seminar for new judges and will be delivered in continuation training for tribunal members where their training cycles are multi-year. A specially adapted inclusion session is also being delivered within the continuation training for coroners in the 2024/25 training year.
24. The inclusion training embeds the Statement of Expected Behaviour in a practical and contextualised way. It therefore supports delegates to understand (1) the nature of diversity and inclusion and (2) how they can each contribute actively towards a more inclusive culture in the Judiciary. It does this by:
 - exploring the nature and social context of diversity and inclusion and its specific context within the Judiciary;

- identifying behaviours required to drive a diverse and inclusive culture and appreciating the importance of embedding them into practice;
 - identifying exclusionary behaviours and appreciating the importance of responding to them appropriately;
 - identifying personal roles and responsibilities in relation to consolidating upon and improving diversity, equality and inclusion in the Judiciary;
 - providing practical techniques for creating an inclusive work environment, including the importance of role-modelling behaviours; and
 - identifying how to respond practically in exclusionary situations and how to act on incivilities appropriately, constructively and effectively.
25. The Judicial College is now developing an approach to foster greater inclusion with the magistracy given its particular nature, size, scale and the diversity of its composition. The Judicial College will do this in a way which respects the unique features of the magistracy, looking not just at the content of the training it provides, but also at the range of ways in which such training can be delivered.
26. Many of the themes of the inclusion training referred to above are further supported by the [Equal Treatment Bench Book](#), published by the Judicial College for all judicial office holders' reference. It was most recently revised in July 2024. It offers extensive practical advice and insight into different aspects of diversity.
27. The Judicial College will continue to consolidate aspects of all of its inclusion training in future training courses. It will ensure that the key concepts and principles, and awareness of available guidance and support, are appropriately embedded and presented.

Policies and support

28. A range of policies and procedures have been implemented to enable judicial office holders to raise complaints against other judicial office holders or staff, informally or formally. Mediation and other forms of informal resolution are also available. Anyone can refer a matter to the JCIO, as is made clear on the [JCIO website](#).
29. Any judicial office holder wanting advice or support, in relation to bullying or harassment or any other similar issue, can contact Judicial HR or use any of the other types of support that are in place. A number of external resources dedicated to judicial wellbeing are available. The Judicial Helpline is available 24 hours a day, every day of the year. This is a free and confidential service offering access to emotional and psychological support by trained professionals and counsellors. Critical Incident Support is available for any judicial office holder who is subjected to an assault or other traumatic incident in the course of their work. Judicial office holders working in crime, family or immigration (where the work is frequently harrowing) are entitled to an annual "professional

support conversation” with a trained counsellor. Trial support is available for judicial office holders involved in high-profile or traumatic cases.

30. In addition, advice and assistance are available on the judicial intranet. Peer support is on hand in two ways. There are twelve nominated judicial office holders who are available to provide confidential and impartial support to anyone who raises a concern or wants to make a complaint or is the subject of someone else’s complaint; specific work is currently underway to look at ways of improving the use of the nominated judicial office holders. There are two welfare judges with portfolio responsibility, beneath whom sit the many locally appointed welfare judges. Many judicial office holders belong to a judicial association which offers support to individual judicial office holders and have a welfare representative in post. Every judicial office holder has a leadership judge who will provide pastoral support and signpost assistance.
31. In developing HR policies and support structures, the Judiciary tries to anticipate areas of stress or pressure for individual office holders. There are various policies in place to deal with specific situations of stress (for example, for those with caring responsibilities and those going through bereavement). More generally, the stress support tool and accompanying guidance is available for anyone feeling stressed, for work or non-work reasons (or a combination of both). The support structures outlined above are available to any judicial office holder who is facing a complaint or wishes to make a complaint – recognising that these are further examples of stressful situations.
32. The nature and accessibility of support for judicial office holders remains under constant review by Judicial HR assisted by judicial office holders with a welfare responsibility.

Judicial Attitude Survey

33. Every two years, the Judiciary invites judicial office holders to complete a judicial attitude survey (“JAS”). The JAS was most recently completed in July 2024 and the results of that survey are currently awaited. New questions relating to bullying, harassment and discrimination were included in the JAS 2024, as well as augmented questions on welfare, inclusion and leadership. The results of JAS 2024 will be carefully considered with a view to developing appropriate strategies for improvement where needed.
34. The previous JAS was completed in 2022 and the results were [published](#) on 4 April 2023.

Next steps

35. Work is underway to formulate the next D&I Strategy and Health and Wellbeing Strategy, both due for publication in 2026. The next iterations will build on existing principles and objectives and identify areas where particular focus is needed. Work on the next iteration of the Strategies will be undertaken by

Judicial Office working in partnership with the Judicial Diversity Committee of the Judges' Council in relation to the D&I Strategy and the Judicial HR Committee in relation to the Health and Wellbeing Strategy (these are both standing committees of the Judges' Council, and both reflect a broad cross section of the Judiciary).

36. Separately, work is underway to ensure the principles and objectives of that training become embedded and normalised as part of judicial culture. The external research consultants who reported in 2022 are assisting the Judiciary to define future priorities. It is clear that judicial leaders at all levels in the Judiciary will have a major role to play in achieving the next phase of culture change. The Judiciary is considering how those judicial leaders can best be supported, in terms of additional time, training and support.
37. The Lady Chief Justice is a member of the Judicial Diversity Forum, chaired by the Judicial Appointments Commission ("JAC") Chair and including representatives from across the legal sector and the Ministry of Justice. The Judiciary co-own the Forum's annual action plan, committing to some shared and individual actions.
38. Quite apart from its participation in the Judicial Diversity Forum, the Judiciary works closely with the JAC to ensure that steps are taken to promote diversity in the pool eligible for appointment to the Judiciary and to encourage those from diverse backgrounds to apply for appointment. The development of a more inclusive workplace culture is part and parcel of the Judiciary's commitment to the wider diversity agenda.

Barristers raising concerns

39. A barrister or other legal professional who feels they have been bullied, harassed or discriminated against by a judicial office holder can address their grievance in a number of ways.
40. A formal complaint can be made to the JCIO, subject to that complaint meeting the requirements of the regulations and supporting rules.
41. There are informal routes also. The first and most obvious is for the barrister to raise the matter with the judicial office holder directly. This can often be done discreetly and simply after the case or hearing has concluded.
42. The second is for the barrister to bring their complaint to the attention of the judicial office holder's own leadership judge. This can be done via the barrister's head of chambers, circuit leader, any other senior member of the Bar or indeed by the barrister personally. The leadership judge will want to investigate: they will want to talk to the judicial office holder concerned, and they are likely to want to listen to the audio recording of any offending exchange, if it took place in a court or tribunal which records proceedings

continuously. They may call on Judicial HR to assist in the resolution of the matter. There is no data collected about this informal process, but the impression gained is that this route for complaint is rarely used, even though it has long been available and it provides precisely the informality that many complainants might welcome.⁷ In some instances, it might be possible for the complainant to remain anonymous.

43. The third is for the barrister to record the complaint anonymously on the Bar Council's "Talk to Spot" platform. Bar Council officials work with the senior judiciary to discuss thematic issues arising from Talk to Spot, and on occasion to pass on complaints about a particular judge whose conduct has given rise to multiple complaints. Where a particular judge is identified in this way, that judge's leadership judge will be told of the reports and invited to have a conversation with the judge concerned. Care is taken to ensure that this approach does not compromise the anonymity of the reporters.
44. Judicial office holders are encouraged to be open to constructive feedback. If they are subject to a complaint, there are different types of support available to them (see above, paragraphs 29 to 31).
45. Barristers who consider themselves to have been the subject of any form of inappropriate treatment by a judicial office holder should raise their concerns which will be dealt with. In that way, the issue can be addressed and resolved. The exchange may well contain learning points for both parties. Barristers should be encouraged to see this as a constructive step towards achieving precisely the sort of inclusive and tolerant culture which is the focus of other efforts described above.

Conclusion

46. The focus of the Judiciary's efforts is on building a more inclusive and respectful culture and in that way addressing instances across the whole spectrum of unacceptable behaviour, from micro-aggressions to bullying and harassment.
47. This work is pressing, not simply because judicial office holders, staff and users should be free to work in an inclusive and supportive environment, but also because it is central to creating a more diverse Judiciary for the future. The Judiciary must be able to attract the very best candidates from the legal professions, which will be possible only if the Judiciary is and is seen as a place where difference is valued and people of all backgrounds and experience can thrive.

October 2024

⁷ The then Senior Presiding Judge, Lord Justice Edis, encouraged criminal barristers to use this informal method of complaint in a speech at the Criminal Bar Association's RASSO Spring Conference held at Inner Temple on 27 April 2024.