

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)
- ☐ Published with certain redactions (please indicate this in the responses)
- ☐ Kept confidential (the submission will only be seen by the review team and not published)

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

Name (optional)

[Click or tap here to enter text.](#)

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?

At the self-employed Bar it is an issue which I believe arises partly out of self-employed status. Chambers is not an employer and cannot act as management of a responsible employer would; creating a culture of equality and diversity. Many self-employed barristers have never worked in an organisation which has corporate responsibility for conduct and have little appreciation of what appropriate behaviour looks like in the modern working world. A minority believes that it would be an improper encroachment on their individual liberty for their behaviour towards others in the workplace to be subject to that sort of accountability.

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

Again, my comments are in the context of the self-employed Bar. It is extremely difficult to engage barristers with the need for training on equality, diversity and inclusion and impossible to create an effective culture of accountability because there is no conduct policy. In my personal experience as a Head of Chambers, there can be vigorous resistance to any suggestion of Chambers having a role policing or monitoring conduct. In any event, leadership roles within self-employed chambers are unpaid and generally are carried out on a voluntary basis, eating into the time available for fee-earning work and there is little appetite or skills to take on challenging, long-term or controversial tasks such as improvement of culture.

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

Allegations are made extremely rarely under these policies. Confidentiality of complaints is extremely difficult to maintain and fear of recrimination is significant. Chambers are generally small to medium size concerns and the risks to the career of a complainant, whether successful or not, are high.

- 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](#)

This is a difficult question, because the traditional statutory definition of harassment includes not only conduct which is carried out with the intention of creating a humiliating or degrading environment, but also conduct which has that effect and Equality Act caselaw suggests that the question of effect is partially subjective in the eyes of the recipient and partly objective. The obvious issue which arises is the capacity of the BSB to regulate given that it already imposes significant financial claims on the profession and does not appear to be managing its obligations as regulator as things stand.

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?

It is unbelievably belittling and humiliating to be subject of harassment, whether of a sexual nature or otherwise. It causes the victim to self-doubt in all aspects of their professional life and creates emotions of guilt, self-blame, embarrassment, fear, anxiety and sense of helplessness. It adversely affects their ability to carry out their professional work and therefore indirectly adversely affects clients.

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

In my opinion and experience it is a significant and causative factor in talented and experienced individuals leaving the Bar, or ceasing to work for chambers.

3. Reporting mechanisms, resources, and sanctions

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

The entire culture points away from reporting wrongdoing. Barristers who display bullying behaviours do not limit themselves to one or two individuals and often behave in a similar fashion towards the senior leadership of chambers. Specific examples of barriers however include, lack of clear reporting structures, lack of confidence in chambers' leadership, fear of recrimination, concerns about confidentiality, overly complicated and defensive policies regarding conduct of self-employed barristers, reluctance to end the tenure of a self-employed tenancy and absence of meaningful measures falling short of termination.

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

It is difficult to imagine that additional mechanisms will make any difference without addressing the fundamental cultural issues at play.

- 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?

The duty is known and understood, but is of little utility, because it is extremely rare for a third party to made aware of 'serious' misconduct and it is quite a significant step to report in circumstances where the victim does not wish to report.

- 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?

The confidentiality issue is often not adequately thought through in chambers' policies or by those who have been entrusted with operating an investigation in accordance with them.

- 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?

There ought to be power to take measures up to and including provisional suspension of tenancy, but the purposes of such power would need to be clearly defined and any exercise of it would need to adhere closely to the principles of proportionality and necessity.

- 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?

Independence and appearance of independence of any investigation within Chambers is a key consideration which is not always well managed in my experience.

- 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?

I am not aware of any upheld complaint in chambers and so am unable to answer.

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?

n/a

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

n/a

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

n/a

- 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 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](#).