

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

Name (optional)

██████████

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?

I haven't personally witnessed or experienced bullying or harassment outside of a court/inquiry setting and so my answers are directed solely to those issues. In particular, my answers are directed to the behaviour of opposing barristers at planning inquiries and the issue of judicial behaviour.

I think that there are a number of issues in play.

With regards to the behaviour of barristers at inquiries I think that the problems are:

- There is a legacy of 'robust' advocacy at inquiries. There is a long history of overbearing advocates which seems to have left an imprint. Those more senior than

me report that it was much worse a couple of decades ago. But that doesn't excuse the fact that some of the bad behaviour remains.

- Advocates at inquiries can be under considerable stress which may account for poor behaviour. Some developer clients want 'robust' advocates who will 'destroy' witnesses. There may be pressure on some to play up to that.
- Whilst bad behaviour at inquiries is by no means widespread it is not uncommon. It is a largely particular individuals who succumb to it. That tells me that the system is pretty much self-policing. Most are well behaved, a few are not. That said, all of us probably have moments we aren't proud of.
- Ultimately, I think there is a striking difference between the behaviour of advocates in court and at a planning inquiry. What that indicates to me is that the most important factor is likely to be that judges won't let advocates get away with it, whereas Inspectors tend to take a very hands off approach. I think it's difficult because inspectors haven't (as I understand it) done judicial training. They tend to be planners, architects etc.

With regards to both judicial bullying and inquiry advocacy:

- There is little incentive to report bad behaviour. Indeed there is considerable disincentive.
 - There is likely to come a point in time where a junior wants to make an application to take silk. For that the barrister needs to have 12 judicial/opponent references. I believe there is a real desire not to rock the boat and not to end up in a judge's bad books. This is particularly the case in an area of law where there is a small specialist bar and a small number of specialist judges.
 - When subject to bullying behaviour, there can be a tendency to criticise oneself for not being robust enough and to explain the behaviour away as difficult as opposed to bullying. When on your feet (and in the headlights) it's very difficult to clearly define the behaviour which is often a mixture of tone and intonation as well as the words used.
- b. Are there particular dynamics or working practices at the Bar which allow for bullying, harassment and sexual harassment to persist?
- I have never seen a less senior person bully a more senior one.
 - Sometimes there can be sexist overtones.
- c. Are the relevant standards of behaviour relating to bullying, harassment and sexual harassment known, clear, accessible, and sufficiently robust?
- I don't believe that they are at planning inquiries. I think that there needs to be a good practice note or similar.

- 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](#)
- I think that anything to make the duties more prominent would be helpful.

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 bullying I have experienced and witnessed has always been in a court of inquiry room. Therefore, it has happened in front of a number of people including the client of the person on the receiving end. I think that can add to a feeling of humiliation.
 - I personally came very close to leaving the bar after one incident in front of a judge.
- b. Is there a wider impact upon barristers' staff, clients (professional and law), or the justice system more broadly?

What is perhaps extraordinary is that there is a strange solidarity because almost everyone has been at the wrong end of an incident at some point in their career

3. Reporting mechanisms, resources, and sanctions

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

With regards to courtroom bullying:

- As mentioned above, I think there can be a tendency to downplay issues
- As mentioned above, there is the problem of the need for references for silk applications and the genuine fear of being given a bad reference/blackballed
- If you practise in an area of law with a small number of specialist judges there can be a fear of blotting your copybook when you inevitably appear in front of the same judge again.
- b. What mechanisms could be put in place to mitigate any repercussions against a complainant who has reported bullying, harassment or sexual harassment?
 - I think that all hearings and inquiries should be filmed. There should then be an anonymous tip off line for anyone in the room to report the behaviour. That piece of video could then be reviewed by an independent person who could then decide to investigate or not.

- I think that a system akin to the one I have outlined would have the benefit of true anonymity.

- 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 think the problem is likely to be in understanding what amounts to 'serious

- 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 not sure.

- 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?

I'm not sure

- 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'm not sure.

- 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'm not sure.

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?

See answer to question 3(b)

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

See answer to question 3(b)

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

I am not sure how much training planning inspectors have on behaviour at inquiries. However I think there may well be scope for a best practice note and also training.

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

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

Click or tap here to enter text.

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](#).