



Confidential Report

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Incident #1: .

In your view, why is bullying, harassment and sexual harassment a persistent problem at the Bar?

The Bar generally focuses on individual achievement, rather than any collective goal. I don't think I have ever attended an event with barristers present (either as a student or a barrister) where disparaging remarks have not been made about any individual or group (e.g. "family barristers are not proper barristers as they don't do any law). Putting others down seems par for the course to enlarge one's own achievements. This has persisted over the time I have been in contact with barristers (10 years). Initially, this attitude really shocked me as I had no connection to the law prior to studying it, but it becomes normalised over time. You either accept that this culture is present, or you leave the profession.

Sexual harassment is widespread. There is a view by senior barristers that this has been wiped out through the existence of various policies. The policies have no point unless they are implemented and, moreover, their use encouraged. When I was sexually harassed by a member of Chambers as a pupil, there was no policy in place. I helped to write a policy for Chambers, but there was no follow up to see whether it was successful. Members of the Bar who are in positions of power seldom intervene when they see bullying or harassment occurring. Worse, they find it amusing and may tell the 'anecdote' at the lunch table the following day.

The misfortune of others is often seen as a source of conversation or fun. This extends from gallows humour about cases to distressing experiences of other barristers.

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

The Bar is a very loosely connected group of individuals with no real oversight. It continues to astound me that sets of Chambers do not have human resources for support, not only for barristers but also for staff. If a grievance is to be reported in Chambers, it is usually to someone who is in a position of power over your career e.g. a silk or head of group. These individuals generally cannot be trusted to keep matters confidential, even when they say the opposite.

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

The standards are clearly available and most at the Bar seem to know about them. The problem is that they are relatively toothless without external support and/or a good attitude to receiving reports. It is all well and good to set high standard of behaviour out in guidance, but without implementation at every level they are practically useless.

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?

Yes, they should form part of the Core Duties. This mere inclusion, though, will not root out the problem. The 'top down' structures of reporting make it very difficult, stressful, and potentially career ending, for a report to be made. The inclusion in the Core Duties, for example, also will not reach many of those who are the perpetrators of bullying and harassment, who seem to believe that they can ignore the code of conduct or are immune due to their position.

What is the impact of bullying, harassment and sexual harassment on those subject to such misconduct?

I will give two examples from my own experience.

First, I was sexually harassed by a member of Chambers when I was a pupil. At the time, there was no policy in place to cover this issue. The individual was respected, well liked and a part time judge. I only reported because my supervisor happened upon me in the

aftermath of the assault. I was on the verge of tears. He encouraged me to make the report the following day. I did not sleep for several nights while the issue was resolved. I believed that I would lose my pupillage, i.e. the one job I was qualified to do and had worked so hard for. I was terrified that information would get out to other members of Chambers, particularly since all discussions were had in Chambers. Even if I was not kicked out of Chambers legitimately, I feared I would be frozen out socially and in terms of junioring work. As it happened, the member of Chambers [REDACTED] left Chambers on health grounds.

Prior to that unusually positive conclusion, I cannot describe the anxiety I felt as a 20 something year old in my first job. I felt acutely that I would not fit into another workplace, that I had failed at the first hurdle by not hiding my upset in the aftermath of the assault and that I had failed my family after they had supported me to become the first member to go to University and to go into law.

Second, many years later I was speaking to some silks at a bar after a conference event. They said that sexual harassment no longer existed at the Bar. I explained that it did, and tried to relay the example above. I was talked over several times. At this point, I made a remark that I will admit was rude but I had been consistently spoken over so much it was difficult not to speak up. Those silks then threatened to report me to my Head of Chambers for the rude remark. Again, I lost days of sleep as I was junioring for Head of Chambers at the time and feared that I would be sacked from the case and a mark would be on my record indefinitely. Thankfully another silk from Chambers intervened and made them see the error of their ways after listening to my reports. This is not a happy conclusion, though, as I will now never attend that conference again even though it would be very useful for my CPD as I simply never want to be face to face with those two men again.

Is there a wider impact upon barristers' staff, clients, or the justice system more broadly?

Put simply, yes. Clerks in particular are often mistreated by barristers in my view as they are seen as lesser. This is not so much the case for, say, ushers who have some control over how a barrister's day might go. This encourages politeness.

More broadly, I cannot imagine the impact on lay people when they see a barrister being talked down to or bullied by another barrister or judge. I have often experienced this, particularly when I am against an older, male opponent. My clients have largely been too polite to say anything but it must concern them that I am either not qualified to represent them or that my arguments will not be found to be persuasive due to biases.

Many of my female solicitors have now said they are stopping working with male barristers

because they find that many are rude, condescending or prone to sexual harassment.

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

The first port of call is usually a member of Chambers rather than an external body. This encourages the rumour mill and fears that reporting will impact career progression. Complaints are either brushed off or taken very seriously indeed. The process is generally long, protracted and not victim led. This creates an environment of anxiety which makes reporting often too painful to commence.

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

The only mechanism I believe would be effective is a wholesale change of attitude at the Bar and in the judiciary. I do not think this will happen, at least any time in the next 20 years.

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

It is known but implementation is very difficult. This is particularly so if a disclosure is made where the victim does not want the serious misconduct to be reported more widely, they simply want to disclose it. That creates a dilemma for the person reporting and the person who is being reported to. In general, where misconduct is observed, particularly at drinking events, it is seen as a funny anecdote rather than a serious issue.

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?

Put simply no. There is no way that the career progression of either can be guaranteed in this environment. Even if an individual were to move Chambers, rumour travels fast and the impact could be felt for years to come.

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?

Yes.

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?

Investigations take an inordinately long time. I can see that this is necessary to ensure fairness. However, I think the reason that it takes so long is that each Chambers has to deal with complaints relatively infrequently so it is difficult to get the machinery in motion. Some sort of external HR would be preferable.

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?

Any deterrence is not currently working as bullying and harassment are so widespread. Particularly senior individuals seem to believe they can act with impunity.

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, at the Bar more widely to assist in preventing such misconduct?

Those in senior positions need to be on the look out for situations as they start. I would feel much better, say, if I was being bullied by a judge if my opponent stood up for me and vice versa. If there is proactive intervention at the time of the event, it is much less likely to escalate. It also means little coming from me if I tell a senior member of Chambers to take their hands off someone else. If someone of equal seniority were to intervene, I think that would be taken much more seriously.

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

No response provided

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

No response provided

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

No response provided

Other details

An issue which is often under discussed is classism at the Bar. Most people who manage to get into the profession have a stellar education and connections to the profession.

Classism tends to manifest itself in quiet ways. For example, I come from the North but practice in London. I tried very hard to get rid of my accent prior to coming to the Bar so that I would not be discriminated against. I do still, if you listen closely, have the remnants of an accent, particularly flat a vowels when I speak. I was criticised for this during pupillage and told to 'speak properly'. It is consistently assumed by my opponents in London courts that I have come down from the North for the day, that I am at a less prestigious Chambers than they are, or that I am getting paid less than them. Each individual instance is not particularly irritating, but taken together they form part of an environment which is hostile to anyone who is perceived as not fitting the mould.

Stay anonymous?

Yes

Your details

No response provided

Consent for evidence downloaded and submission

Yes

Consent for publishing

Yes