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The Law Society
OF SOUTH AUSTRALIA

The Rt Hon Baroness Harriet Harman KC
The Bar Council
289-293 High Holborn
London WC1V 7HZ
UK

By email only: BHReview@barcouncil.org.uk

Dear Lady Harman

Thank you for your correspondence of 11 April 2025 regarding your Independent Review into Bullying, Harassment and Sexual Harassment at the Bar of England and Wales. I do apologise for the delay in my reply (I understand a response was requested by 2 May 2025) as we have been busy addressing responses to similar matters within our jurisdiction.

The Society supports this important work and recognises the shared commitment across jurisdictions to address these critical issues, which significantly impact the wellbeing of legal professionals and public confidence in the legal system.

The South Australian Equal Opportunity Commissioner (EOC) has recently engaged in two similar reviews. An initial review was commissioned in late 2020 following concerns raised within the profession and a motion passed by the South Australian Parliament's Legislative Council. This review, completed in April 2021 (the 2021 EOC Review), provided evidence that reflected findings across many other jurisdictions about the material prevalence of harassment within the South Australian legal profession.¹

Subsequently, as recommended in the 2021 report, a follow-up review was commissioned by the Attorney-General in 2024, to assess the progress made and the effectiveness of implemented changes, laws, policies, structures and complaint mechanisms. The findings of this second review were released in early 2025 (2024 EOC Review).²

The Law Society, alongside other key bodies including the South Australian Bar Association (SABA) are committed to utilising the findings of these reviews to foster a safer, more respectful and inclusive legal profession.

1. To what extent, if any, is bullying and harassment a problem in the legal profession in your jurisdiction?

Bullying, discrimination, and sexual harassment are acknowledged as significant and persistent problems within the South Australian legal profession. This conclusion is unequivocally supported by the findings of the EOC reviews.

¹ [2021 Review of harassment in the legal profession \(SA\) | Equal Opportunity SA](#)

² [2024 Review of harassment in the legal profession \(SA\) | Equal Opportunity SA](#)

Key findings of the 2021 EOC Review included:

- 42% of the over 600 survey respondents reported having experienced sexual or discriminatory harassment while working in the legal profession.
- The review described "instances of appalling behaviour, complacent attitudes from colleagues and a workplace culture where people feel they need to simply 'move on' for fear of professional retribution," occurring across both private and public sectors.
- Power imbalances were identified as a critical factor, with harassers often being senior members of the profession, including judicial officers targeting junior practitioners or administrative staff.

The 2024 EOC Review found that while some progress had been made, harassment persists at "disappointing levels":

- Over 50% of survey respondents reported experiencing sexual harassment, discrimination, or bullying at work in the preceding three years. A similar proportion (over 50%) reported witnessing such behaviour.
- Bullying was reported by 39.2% of respondents. The most frequent bullying behaviours were unjustified criticism or complaints (64.8%), belittling or humiliating comments (63.4%) and aggressive/intimidating conduct (62.4%).
- Discrimination was experienced by 20.3%, most commonly involving less favourable work conditions or offensive comments/jokes (both 45.4%), isolation (34.3%), intrusive questions (31.5%), or denial of opportunities (28.7%). Sex, age, caring responsibilities and race remained the most common grounds.
- Sexual harassment was experienced by 16.3%, most commonly suggestive jokes/comments (63.7%) and intrusive questions about private life/appearance (48.4%). Notably, reported incidents of staring, inappropriate physical contact and pressure for sex decreased compared to 2021.
- Over 20% of those who experienced bullying identified a judicial officer as the perpetrator, as did 10% experiencing discrimination and 9% experiencing sexual harassment.
- Positive shifts were noted, including the reduction in some forms of sexual harassment, an increased willingness by victims and bystanders to take some form of action (though often not formal reporting) and greater overall awareness of the issues.

2. Please could you share with us a copy of the relevant provisions in your Code of Conduct which deal with bullying and harassment? In your view, are the standards of behaviour required of barristers as set out in the Code clear and sufficiently robust?

The primary code of conduct governing all legal practitioners admitted in South Australia, including both solicitors and those practising exclusively as barristers, is the South Australian Legal Practitioners Conduct Rules (SALPCR).³ These Rules were adopted by the Law Society Council and took effect on 1 January 2022.

The SALPCR are structured in two main parts:

- Part A: Constitutes the South Australian version of the Australian Solicitors' Conduct Rules (ASCR) and applies to all South Australian legal practitioners who do not practise exclusively as barristers.
- Part B: Contains specific conduct rules applicable only to those South Australian legal practitioners who hold a Category BA (Barrister) practising certificate or who have elected under the professional indemnity insurance scheme to practise exclusively as a

³ [South Australian Legal Practitioners Conduct Rules](#)

barrister. Members of the South Australian Bar Association (SABA) are bound by these rules.

The key provision dealing directly with bullying and harassment is Rule 42 (Anti-discrimination and harassment), which appears in Part A and is mirrored or adopted by reference for those practising under Part B. Rule 42 states:

42. Anti-discrimination and harassment

42.1 A solicitor [practitioner] must not in the course of, or in connection with, legal practice or their profession, engage in conduct which constitutes:

- 42.1.1 discrimination,
- 42.1.2 sexual harassment,
- 42.1.3 any other form of harassment, or
- 42.1.4 workplace bullying.

Other fundamental duties outlined in the SALPCR are also relevant. These include the duty to be honest and courteous in all dealings (Rule 4.1.2), to avoid any compromise to integrity and professional independence (Rule 4.1.4) and to not engage in conduct demonstrating unfitness to practise or likely to diminish public confidence or bring the profession into disrepute (Rule 5).

Regarding the reporting of misconduct by peers, the SALPCR, do not contain a specific rule mandating practitioners to report misconduct (including bullying or harassment) they observe in colleagues. Rule 32 (Unfounded Allegations) requires that if a practitioner chooses to make an allegation of misconduct against another, it must be done bona fide and on reasonable grounds supported by available material. Rule 43 (Dealing with Regulatory Authority) requires practitioners to be timely, open and frank when dealing with the regulator (the LPCC), subject to their duty to the client, primarily in the context of investigations or inquiries.

Rule 42 represents a robust statement of the profession's expected standards. The practical reach of this standard is challenged by the EOC's findings on the persistent nature of the prohibited behaviours. This suggests that the rule's existence, while crucial for setting standards and enabling disciplinary action, is not inherently sufficient to drive cultural change or ensure compliance without effective enforcement, impactful prevention strategies and mechanisms that successfully overcome the significant barriers to reporting identified in the EOC reviews.

3. Do lawyers in your jurisdiction undertake any training on bullying and harassment? If so:

a. Is this training voluntary or mandatory?

b. In your view, is this training effective?

c. Please could you share copies of any relevant training materials with us?

Yes, legal practitioners in South Australia are required to undertake training on bullying, discrimination and harassment (BDH). Under the Mandatory Continuing Professional Development (MCPD) scheme, administered by the Legal Profession Education and Admission Council (LPEAC) and overseen by the Law Society, practitioners must complete a minimum of 10 CPD units each year to maintain their practising certificate.

a. Is this training voluntary or mandatory?

Within these 10 units, there are four compulsory topic areas, each requiring at least one unit. Bullying, Discrimination and Harassment (BDH) is one of these compulsory areas, together with Practical Legal Ethics, Professional Skills and Practice Management/Business Skills.

Accordingly, completing at least one unit of BDH training annually is mandatory for all practising certificate holders in South Australia.

b. In your view, is this training effective?

Training may be offered by a range of providers with no formal quality assurance process required. The 2024 EOC Review specifically examined this issue. While the review found that most survey respondents had attended harassment-related CPD in the past three years, practitioners reported views that:

- Attendance did not necessarily translate into behavioural change.
- Training content was sometimes perceived as generic or failing to address the specific dynamics of the legal profession.
- There was cynicism when known perpetrators were seen not to take the training seriously.
- Some respondents viewed it as a repetitive 'tick-box' exercise rather than meaningful development.
- In some cases, it was felt that the content or delivery could be re-traumatising for those who had experienced harassment.

Reflecting these concerns, the 2024 EOC Review made specific recommendations aimed at improving training effectiveness.

c. Please could you share copies of any relevant training materials with us?

The Law Society conducts two training sessions directed to bullying, discrimination and harassment and bystander awareness. This training was developed by the Queensland Law Society and is made available in South Australia under licence. The terms of that licence do not allow us to further share the training materials. We recommend that you approach Queensland Law Society directly in this regard.

4. Are law firms regulated entities in your jurisdiction?

The regulation of the legal profession in South Australia primarily focuses on individual legal practitioners. However, law practices, including law firms structured as partnerships or Incorporated Legal Practices (ILPs), operate within a distinct regulatory framework and are subject to specific obligations, making them regulated entities in a broader sense.

Individual legal practitioners are regulated under the *Legal Practitioners Act 1981* (SA) (LPA). The Legal Profession Conduct Commissioner (LPCC) is the independent body responsible for investigating complaints about the conduct of individual lawyers. Practising certificates are issued by the Law Society.

Law practices, as entities, are also subject to regulation under the LPA and associated regulations, such as the Legal Practitioners Regulations 2014.

Specific structural and operational requirements apply to ILPs under LPA Schedule 1, including requirements regarding legal practitioner directors who are responsible for managing the legal services provided. Principals of ILPs are considered responsible for the entity's compliance.

Most law firms participate in the Law Society's Professional Standards Scheme (PSS), established under the Professional Standards Act 2004 (SA). Participation in the PSS limits the civil liability of the practice and its members, but requires the practice to meet scheme requirements, including disclosure obligations and adherence to risk management standards encouraged by the Law Society.

The LPCC does not typically have direct disciplinary jurisdiction over the firm entity for cultural failings related to issues like harassment in the same way it does over individual practitioners.

Addressing systemic cultural issues within a firm often occurs indirectly through disciplinary action against individuals, enforcement of Work Health and Safety laws by SafeWork SA, or through the influence of PSS requirements.

5. What obligations, if any, do law firms have to prevent and/or respond to incidents of bullying and harassment?

Law firms in South Australia have significant legal and ethical obligations to prevent and respond to incidents of bullying and harassment, stemming from multiple legislative and regulatory sources. These obligations create a multi-layered responsibility for firms to foster safe and respectful workplaces.

Under the *Work Health and Safety Act 2012 (SA)* (WHS Act), law firms, as Persons Conducting a Business or Undertaking (PCBUs), have a primary duty of care to ensure, so far as is reasonably practicable, the physical and psychological health and safety of their workers. This duty explicitly encompasses the prevention and management of psychosocial hazards, including workplace bullying and harassment.

Law firms must also comply with the *Equal Opportunity Act 1984 (SA)* and federal anti-discrimination laws, primarily the *Sex Discrimination Act 1984 (Cth)* (SDA).²³ These laws prohibit discrimination and harassment based on protected attributes (e.g., sex, race, age, disability, sexual orientation, gender identity, caring responsibilities).

The SDA was amended in December 2022 to introduce a positive duty on organisations to take proactive, reasonable and proportionate measures to *eliminate*, as far as possible:

Discrimination on the ground of sex in a work context.

Sexual harassment in connection with work.

Sex-based harassment in connection with work.

Conduct creating a workplace environment hostile on the ground of sex.

Related acts of victimisation.

The EOC's 2021 review also recommended considering a similar positive duty under the state *Equal Opportunity Act*.

6. What informal and formal reporting mechanisms are available to lawyers who have experienced or witnessed bullying or harassment either by (i) other lawyers; (ii) judges; (iii) clients; or (iv) clerks or other employees? How effective are these mechanisms?

Lawyers in South Australia have access to a range of informal and formal reporting mechanisms, both internal to their workplace and external through regulatory and statutory bodies.

Internal Mechanisms within a legal practice or chambers Law Firms/Chambers may include discussing the issue with a trusted supervisor, manager, partner, mentor, or Human Resources representative is often the first step and making a formal complaint through the organisation's established internal grievance procedure.

The effectiveness of internal mechanisms varies significantly based on the specific workplace's culture, the quality of its policies, the seniority of those involved and the perceived impartiality and confidentiality of the process. The EOC reviews consistently highlighted a lack of trust in internal processes among many practitioners. Most practitioners in South Australia are engaged sole or small practice making the utility of internal processes more limited. The Law Society has made available a range of template policies and resources available to assist legal practices in maintaining appropriate internal processes.

This includes a template policy in respect of drug and alcohol use – a matter highlighted in the 2024 EOC Review as being a matter of particular concern.⁴

Externally, reports may be made to the following bodies:

- Formal Complaint to the LPCC - A written complaint can be lodged alleging unsatisfactory professional conduct or professional misconduct, including breaches of SALPCR Rule 42 (BDH). This requires identifying the complainant and the practitioner.
- LPCC 'Speak safely' Anonymous/Confidential Reporting - An online tool allows targets or witnesses to report BDH anonymously or confidentially to the LPCC, without triggering a formal investigation unless they choose to proceed formally later.
- Judicial Conduct Commissioner (JCC) SA - The JCC is an independent body for receiving written complaints about the conduct of serving South Australian judicial officers. The JCC investigates and can dismiss, refer for counselling/education, or recommend a formal Judicial Conduct Panel investigation for serious matters potentially warranting removal.
- Equal Opportunity Commission SA (EOC) - Handles complaints of unlawful discrimination or harassment under the Equal Opportunity Act 1984 (SA), offering conciliation services.
- Australian Human Rights Commission (AHRC) - Investigates complaints under federal anti-discrimination laws (e.g., Sex Discrimination Act, Racial Discrimination Act).
- Fair Work Commission (FWC) - Employees experiencing workplace bullying (repeated unreasonable behaviour creating a health/safety risk) can apply for an order to stop the bullying. The FWC can also deal with 'general protections' claims involving adverse action taken for discriminatory reasons.
- SafeWork SA - Receives reports concerning the employer's (PCBU's) failure to manage WHS risks, including systemic issues contributing to bullying or harassment.
- Internal Court Mechanisms: Some courts have established internal committees (e.g., Supreme Court Courtroom Culture Committee) or conduct policies, which might offer supplementary avenues, but the JCC is the primary external body.

The Law Society and SABA provide resources and may offer informal support mechanisms, such as SABA's designated Grievance Stewards. Counselling and support are made available to all legal practitioners through the LawCare service operated by the Law Society. If a report about conduct is made to the Law Society, obligations to refer that report to the LPCC may arise.

- Effectiveness

Both the 2021 and 2024 EOC Reviews revealed significant underreporting to external bodies like the LPCC and JCC, despite general awareness of their existence.

The LPCC's 'Speak safely' tool is a direct attempt to overcome reporting barriers. While the LPCC reported to the EOC a "modest increase" in BDH reports following its launch, indicating some initial positive effect, the LPCC acknowledges that building trust and achieving significant long-term impact will take time.

⁴ [BDH Resources for Law Practices](#)

7. Have you identified any barriers to reporting incidents or bullying or harassment? If so:

a. What are these barriers?

b. What efforts are being made to overcome these barriers and how effective have these efforts been?

a. What are these barriers?

Significant barriers to reporting bullying, discrimination and harassment within the South Australian legal profession have been clearly identified, primarily through the EOC's 2021 and 2024 Reviews. These include:

- Fear of Reprisal/Victimisation
- Lack of Trust and Confidence in Processes
- Culture of Silence, Acceptance, or Intimidation
- Power Imbalances
- Uncertainty about Processes

b. Efforts to Overcome Barriers and Effectiveness

Efforts are being made by leadership across the profession to actively address harassment, promote respectful behaviour standards and raise awareness. The reconvening of a cross-profession Respectful Behaviour Working Group led by the Chief Justice of South Australia forms part of this effort. The LPCC's implementation of the 'Speak safely' online reporting tool is also aimed at reducing the barriers to reporting.

8. What is the threshold for triggering regulatory action in cases of bullying or harassment?

Regulatory action against legal practitioners in South Australia for misconduct, including bullying and harassment, is governed by Part 5 of the LPA. The threshold for action depends on whether conduct may be capable of meeting the statutory definitions of "unsatisfactory professional conduct" or "professional misconduct".

Unsatisfactory Professional Conduct is defined in section 68 of the LPA and includes conduct (in connection with legal practice) that falls short of the standard of competence and diligence a member of the public is entitled to expect of a reasonably competent legal practitioner.

Professional Misconduct is defined in section 69 of the LPA as:

- Unsatisfactory professional conduct that involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; or
- Conduct (whether in connection with legal practice or otherwise) that would justify a finding that the practitioner is not a fit and proper person to practise law.
- Conduct that is defined as professional misconduct at common law (conduct reasonably regarded as disgraceful or dishonourable by professional peers of good repute and competency).

The LPA also details the powers of the LPCC in respect of investigating and taking action with respect to allegations of unsatisfactory professional conduct or professional misconduct which may result in no further action, disciplinary orders and/or other conditions being made by the LPCC or laying a charge to be determined by the Legal Practitioners Disciplinary Tribunal (LPDT) for the matter to be determined.

The LPCC's website also provides details on the circumstances in which action may be taken.⁵

⁵ <https://lpcc.sa.gov.au/>.

These provisions of the LPA, and the circumstances in which the LPCC may lay a charge, were recently considered in a decision of the South Australian Court of Appeal which related to a charge of professional misconduct laid by the LPCC in relation to alleged inappropriate and uninvited physical and sexual contact with, or advances to, another practitioner.⁶ We note that the substantive matter has not yet been determined.

We observe that the 2024 EOC Review recommended various changes to the LPCC's powers which are currently under review.

9. Are lawyers under a duty to report certain misconduct to the regulator? If so:

a. When is this duty triggered?

b. Is this an effective mechanism?

In South Australia, there is no general mandatory duty imposed on legal practitioners by the SALPCR or the LPA to report suspected misconduct – including bullying, discrimination, or harassment – committed by other legal practitioners to the regulator (the LPCC) or the Law Society.

The LPA imposes specific reporting obligations in limited circumstances, such as the duty for practitioners to report certain 'show cause events' to the Law Society (for example, specific criminal charges/convictions or bankruptcy).

As there is no general mandatory reporting duty for peer misconduct in South Australia, the effectiveness of such a mechanism cannot be assessed.

10. In your view, is the regulator effective in handling cases concerning bullying and harassment?

The primary regulator responsible for handling complaints about the professional conduct of lawyers in South Australia, including allegations of bullying, discrimination and harassment is the LPCC.

The LPCC has demonstrated responsiveness to the issues highlighted by the 2021 EOC Review. Key initiatives include:

- Launching the 'Speak safely' anonymous and confidential online reporting tool, specifically designed to lower barriers for reporting BDH.
- Assigning dedicated staff with specialised experience to handle BDH reports and complaints, aiming for a more sensitive and potentially trauma-informed approach.
- Engaging with the legal profession through presentations and publications to raise awareness about conduct standards and the complaints process.

11. In particularly sensitive cases concerning sexual misconduct, are there any bespoke mechanisms in place to support complainants?

Recognising the particular sensitivity surrounding complaints of sexual misconduct, several mechanisms and resources exist in South Australia aimed at providing support, although comprehensive, integrated support throughout the entire formal process remains an area for development.

The LPCC offers avenues for reporting that aim to be more sensitive than standard procedures. Complainants can make confidential reports via telephone or email directly to a designated investigating solicitor who has specialised experience in handling BDH matters.

⁶ [LEGAL PROFESSION CONDUCT COMMISSIONER v BELPERIO \[2024\] SASCA 102 \(22 August 2024\)](#)

This allows for a personalised initial contact. The 'Speak safely' anonymous online tool also provides a controlled, less direct way for individuals to initially disclose information.

The 2024 EOC Review recommended that LPCC investigators receive training in the "trauma-informed management of complaints of harassment". The Law Society has offered training and education on potential impact of trauma on complainants and the need for appropriate handling.

Complainants interacting with the LPCC can be accompanied by a support person or legal representative. Specific support contacts are promoted, such as a designated support person within the Women Lawyers Association of South Australia (WLASA) and Grievance Stewards within the South Australian Bar Association (SABA).

12. Is there a problem with judicial bullying in your jurisdiction? If so:

- a. How has this problem been identified?**
- b. What mechanisms are in place for lawyers to report judicial misconduct?**
- c. To what extent are these mechanisms used?**
- d. In your view, are these mechanisms effective?**
- e. What sanctions are available in response to a finding of judicial bullying and are these sanctions sufficiently robust?**

a. Identification of the Problem

Both the 2021 and 2024 EOC reviews collected data indicating judicial officers were implicated in harassment. The 2021 review found just under 13% of harassment survey respondents identified a judicial officer as the perpetrator, often targeting junior women or staff. The 2024 review confirmed the persistence of this issue, with significant minorities reporting experiencing bullying (>20%), discrimination (10%), or sexual harassment (9%) perpetrated by a judicial officer.

b. Reporting Mechanisms

The primary mechanism for lawyers (and any other person) to report misconduct, including bullying or harassment, by a serving South Australian judicial officer (Judge, Master, Magistrate, Coroner) is the JCC.

c. Extent of Use

The JCC publishes Annual Reports which include statistics on the number and types of complaints received and their disposition.

One serving Magistrate was removed from his position in 2022 following a Judicial Conduct Panel Investigation.⁷

d. Effectiveness Assessment

Concerns have been raised about the experience for complainants within the JCC process, particularly if a matter proceeds to a formal Judicial Conduct Panel investigation. Issues highlighted include the potential adversarial nature of panel hearings and the adequacy of protections for complainants compared to, for example, vulnerable witnesses in criminal trials.

e. Sanctions and Robustness

The sanctions available following a complaint to the JCC vary depending on the seriousness of the conduct and the findings of the investigation. For less serious matters,

⁷ <https://hansardsearch.parliament.sa.gov.au/daily/uh/2022-11-17/3>.

the JCC may dismiss the complaint, provide feedback or advice to the judicial officer or the relevant Head of Jurisdiction, or recommend counselling or education for the judicial officer. If the JCC considers the conduct may be serious enough to potentially justify removal from office, the Commissioner recommends the Attorney-General appoint a Judicial Conduct Panel to conduct a formal investigation. The Panel investigates and reports its findings to the Attorney-General. It may find the complaint substantiated or not and may make findings regarding misconduct or incapacity.

The most serious judicial misconduct or incapacity may result in removal from office by the Governor following an address from both Houses of the South Australian Parliament.

It is also observed that the current powers of the JCC do not permit an investigation to continue if a judicial officer ceases to be a judicial officer.

Conclusion

The Law Society of South Australia appreciates the opportunity to contribute to the UK Bar Council's important review and remains willing to share further information or engage in continued dialogue as this important work progresses.

Yours sincerely



Marissa Mackie
President