

The Rt Hon Baroness Harriet Harman KC
Chair of The Independent Review of Bullying
and Harassment at the Bar

Judicial Conduct Investigations Office
80-82 Queen's Building
Royal Courts of Justice
London WC2A 2LL

26 March 2025

Dear Simon,

Re: Independent Review of Bullying, Harassment and Sexual Harassment at the Bar

Thank you for your letter dated 31 October 2024. I am grateful to you for providing us with copies of the consultation on the judicial disciplinary system and the formal response. We are, of course, aware of section 139 of the Constitutional Reform Act 2005. We understand that matters relating to individual cases are confidential. We are seeking information that does not impinge on confidentiality but which is not in the public domain. Thank you for offering to assist us by way of written correspondence. We would be grateful if you could address the following questions:

1. In each of the past five years, how many complaints has the JCIO received per year?
2. How many of these complaints have been made by barristers in relation to bullying and/or harassment by judges?
3. In each of past five years, how many of those complaints made by barristers in relation to bullying and/or harassment have been assessed by the JCIO as eligible complaints?
4. Of those which have been assessed as eligible, how many have been upheld and resulted in a sanction?
5. In each of the last five years, how many JCIO cases concerning barristers resulted in the removal of judges from office? Of these cases, how many concerned the bullying and/or harassment of barristers?
6. Of those complaints made by barristers which have been rejected, on what basis were they rejected?
7. In each of the past five years, how many complaints made by barristers have been concluded within the JCIO's target timeline of twenty weeks?
8. For cases that exceeded the twenty-week target, what were the reasons for delay?

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9. In your view, what is the reason for:
 - a. the small number of complaints made by barristers;
 - b. the small number of complaints made by barristers that proceed to an investigation; and
 - c. the small number of complaints made by barristers that result in sanction?

10. Does the JCIO undertake any engagement with the profession in order to assist barristers in (a) identifying when judicial misconduct constitutes bullying and/or harassment and (b) how to make complaints against judges?

11. Does the JCIO provide any advisory services to barristers considering making a complaint?

12. Does the JCIO have guidance to assist in assessing whether judicial behaviour is proper conduct in the context of a case or whether it constitutes misconduct which may require disciplinary action? Please provide examples of behaviour which has been the subject of complaint that has not met the threshold of misconduct. Please provide examples of behaviour that has crossed the threshold and that has been considered as bullying or harassment.

13. Rule 12 of the Judicial Conduct Rules 2023 requires that a complaint be made within three months of the matter complained of. What is the rationale for not considering complaints based on conduct that occurred more than three months prior to the complaint being made?

14. Rule 8c of the Judicial Conduct Rules requires that a complaint must “contain an allegation of misconduct on the part of an identified or identifiable person holding an office, which is supported by relevant details as specified in guidance published by the JCIO from time to time.” How is Rule 8c in respect of ‘relevant details’ applied in practice?

15. Is the JCIO able to obtain the evidence required to undertake effective investigations? If not, please give examples of where accessing the relevant evidence has not been possible.

16. Is the JCIO able to obtain audio recordings of hearings as a matter of right? If not, what is the process for obtaining recordings?

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17. Does the complainant have an automatic right to listen to audio recordings obtained by the JCIO? Does the JCIO send copies of audio recordings to complainants as a matter of course?
18. Where there are no audio recordings of a hearing, what is the JCIO's approach to assessing non-verbal communication? What alternative evidence is available, if any, to assess non-verbal communication?
19. Would it assist with JCIO evidence-gathering if all courts and tribunals were required to record their proceedings?
20. Where a court case has been successfully appealed on the basis of judicial misconduct, does the JCIO instigate an investigation as a matter of course? If not, why not?
21. In addition to consideration of complaints and cases referred by the Ombudsman or a nominated judge, is the JCIO able to undertake investigations of its own motion? If not, would the JCIO welcome an expansion of its powers to allow for 'own motion' investigations into judicial behaviour in relation to barristers?
22. What support is available to complainant barristers during a JCIO investigation? Is any signposting provided to other services?
23. Does the JCIO take any steps to reduce the risk of victimisation of a complainant barrister by the judge in question (a) while the investigation is ongoing and (b) after conclusion of the investigation? If so, what steps are taken?
24. Does the JCIO take any steps to avoid the judge hearing cases in which the complainant is acting while the investigation is ongoing, and/or provide any information to barrister complainants about making applications for recusal for potential bias?
25. What, in practice, is the difference between a formal warning and a reprimand?
26. In cases involving a complainant barrister which do not reach the threshold for removal, is the JCIO able to impose measures such as mandatory training, court monitoring, increased oversight, or the issuing of apologies?
27. Why is the database of disciplinary statements on the JCIO website not searchable by name or keyword?

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Thank you for your engagement with this Review. We look forward to receiving your response within 3 weeks.

Yours sincerely,

Baroness Harriet Harman

Chair of the Independent Review into Bullying, Harassment and Sexual Harassment at the Bar