

Dear Ms Harman,

Thank you for the invitation to make submissions to your review.

Bullying has no place in our society and we must take all practicable steps to reduce the incidence and impact of such behaviour. Anything that encourages victims to come forward, for perpetrators to be identified and dealt with, and for any systemic factors to be addressed, is to be warmly welcomed. Your review is a valuable contribution to those efforts.

Your definition of bullying is one that would, historically, have been widely accepted. My perception is that many members of society (including members of the Bar) now consider that definition to be too narrow. In particular, they would include any behaviour that causes them to feel offended, intimidated, insulted, undermined, humiliated, denigrated or injured irrespective of whether:

- a. Those feelings were (objectively) reasonable.
- b. The speaker intended or was reckless as to whether those feelings would be generated.
- c. The speaker could reasonably have anticipated that those feelings would be generated.

In other words, for many, the test is largely subjective: if they feel bullied, they are being bullied. This cultural change from objective standards of behaviour to the primacy of the victim's feelings has been rapid. As with all rapid cultural changes, it tends to be more widespread amongst some groups than others and this has led to the current absence of consensus.

So, what is, for one group, a welcome, robust, exchange of views about the merits of a position, is to another group, an unacceptable verbal assault.

This has a number of unintended consequences:

- a. It limits communication, particularly between those with different expectations and norms. (No right-thinking person wants to cause offence. In the absence of a consensus on what is acceptable, the only safe course is not to communicate unless strictly necessary)
- b. Reduced communication leads to reduced integration and increased isolation;
- c. Increased isolation reinforces the different expectations of those different groups and obstructs the development of a new consensus.

I suggest that our aim as a profession (and a society) should be to develop a new consensus that:

- a. Encourages an open, honest and robust exchange of views; whilst
- b. Ensuring that no-one feels bullied.

I am not sure how this is to be achieved, but any review that does not consider this fundamental cultural change will miss the opportunity to provide a comprehensive

assessment of the problem and its solutions. I look forward to reading your recommendations.

Regards,

(For the reasons set out above) please publish my submission anonymously.

PS: My suggestion of a lack of consensus does not apply to harassment, which is an established legal term of art that is well understood by the Bar.

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Barrister