Covering email:

Dear Harman Review

I've been encouraged by Sam Mercer (Bar Council) to submit the attached article to you as part of the Harman Review.

I am sorry that I have not been able to format it directly in response to the Review's consultation questions, but it has only recently been accepted for publication and I am currently travelling in Australia, and will be until after the deadline for submissions. I hope that the piece as it stands will nonetheless be of some value to the Review.

It addresses an issue that is somewhat niche – experiences of students during mini-pupillages – and it is based on a very small, exploratory study. But it does, I think, raise some issues that merit further reflection from the profession and academy alike, and maps to some of the wider themes that are being considered by the Review in relation to working cultures at the bar, etc.

If I can be of any further assistance, do please just let me know. The piece will be published shortly in The Law Teacher journal. It will be open access when it is published, so freely available without a paywall – but until it is formally published, if you could please advise of any further use or circulation that you intend for the submission so that I can make the journal aware, that would be most helpful.

Thanks very much
Vanessa

Learning on the Job?: Addressing Students' Exposure to Bullying, Harassment or Discrimination During Legal Placements

Vanessa E Munro[1]

Every year, hundreds of undergraduate law students across the UK participate in work experience. Undertaking placements is strongly encouraged by universities, since it provides valuable insight regarding the reality of a legal career and improves students' prospects of employability in a highly competitive market. Indeed, it has been suggested that "acquiring multiple stints of work experience, paid or unpaid, is pseudo mandatory for those law students seeking to secure graduate employment as lawyers."[2]

---

[1] Professor, Warwick Law School, UK. V.Munro@warwick.ac.uk. I am grateful to the University of Warwick Faculty of Social Science Research Development Fund for providing the funding to support this research. I am much indebted to Sadie Chana and Jennifer Wright for their work as Research Associates, without whom it would not have been possible to complete the fieldwork in the allotted timescales. I am grateful to all who participated in the study, especially those students who shared their experiences with us. I am also indebted to colleagues at the Bar Council who assisted in the recruitment phase of the research.

[2] Anne Hewitt, Laura Grenfell, Hadieh Abiyat, Mikeyli Hendry, Joanna Howe and Sam Whittaker, 'Weighing the Cost of Expectations that Students Complete Legal Work Experience' (2022) 32(1) *Legal Education Review* 109-128, at p. 111.

A small but increasing number of UK law schools now offer 'sandwich placements' in which one year of the LLB programme is devoted to students undertaking employment in a law firm, or legal work. Others have integrated opportunities for placements of shorter duration into their degree pathways. The organisation of these placements varies across institutions, but those with more developed offerings will often work through bespoke clinical legal education programmes, coordinated in-house by the law school or via structured collaboration with core external partners, to identify and provide opportunities to students. In such circumstances, there is greater potential to manage and evaluate students' experiences during placements, and to ensure equitable distribution of opportunities regardless of individual social capital.

However, this integrated approach remains far from the norm across UK law schools, with many continuing to rely solely on more ad hoc arrangements, whereby students make applications to vacation schemes run by solicitors' firms or barristers' chambers under their own initiative. This is not to say that these law schools do not take an interest in their students' participation. To the contrary, university careers services will often alert students to the availability of these schemes and support them in preparing applications, while student law societies (with funding from the university) will host prospective firms / chambers at campus events in the hopes of generating increased networking opportunities for members. In addition, law academics may have structured schedules to guide pastoral interactions with students across the undergraduate degree, which include mandated discussions around employability, often highlighting the perceived benefits of securing placement opportunities. However, since students' placements under this model are typically short-term in nature and not integrated formally into the undergraduate curriculum, there is rarely an institutional process for their oversight and organisation. There are no mechanisms for ensuring equitable access to opportunities across the student cohort, no clear lines of accountability in respect of the operation of placements that are secured, and no systematic procedures for enabling post-placement reflection and evaluation with students before encouraging repeat uptake from future cohorts.

The term 'placement' can thus apply to a wide spectrum of arrangements for legal work experience that involve different degrees of formality, integration, and duration; all of which might matter when considering appropriate structures for access, oversight or accountability. For the purposes of this article, however, the primary focus will be on the latter, more informal type. This is because work experience secured directly by students - albeit with the support and encouragement of academic institutions - continues to be common in many UK law schools, and demonstrates particularly acutely key challenges to the ethical and effective running of placements, some of which are also likely to be relevant within more formalised arrangements.

Previous work has begun to critically explore the system- and individual-level consequences of the drive for undergraduate participation in legal placements, particularly when organised outside of any formal 'sandwich' degree structure. Critics have highlighted, for example, the challenges that it can present to those students who lack networks of contacts to facilitate access, or who have insufficient funds to

support the travel and accommodation costs often associated with the opportunities that are available. It has been observed that "these equity issues are particularly acute in the legal profession which in the past has suffered from the reputation of being close-knit, 'pale, male and stale', and generally lacking in diversity."[3] In addition, it has been noted that the substantial variability which currently exists in the design, structure, content and conditions of placements for students entails that not all work experience will bring equal benefits, and there is a risk that students with lower social capital will be more likely to secure poorer quality opportunities that, in turn, "compound existing system-level disadvantage."[4] There have been some recent initiatives to assist in redressing these challenges in England and Wales, including access schemes that seek to facilitate participation amongst historically minoritised groups.[5] But, to date, there has been little sustained interrogation of students' experiences under those access schemes and, in particular, of the extent to which they differ from those of students who secure legal work experience by other means.

Research has also begun to highlight the personal costs associated with the pressure on law students to devote time and energy - alongside completing their academic study - to pursuing placements, particularly in a context in which there is a perceived incentive to secure as many opportunities as possible to be best positioned to fulfil career aspirations. Drawing across their collective auto-ethnographical experiences, Hewitt et al conclude that "these challenges are significant, and in the context of growing awareness of the mental health challenges faced by both law students and lawyers, need to be considered further."[6]

These are, indeed, vital considerations that require more interrogation: both to better evaluate the consequences of putting a greater emphasis on placement experience within graduate recruitment, and to clarify the appropriate role and responsibility of the legal profession and legal academy in ensuring equitable access, and appropriate treatment, for students in respect of this process. There is, however, a further dimension that, despite its importance, has to date received surprisingly scant scrutiny: that is, the extent to which students might be exposed to bullying, discrimination, harassment or related misconduct during placements, and how any such experiences are received, reported and responded to. As discussed further below, while processes exist for reporting and responding to inappropriate behaviour within the legal profession - including under the frameworks of employment and equality law, with additional mechanisms for oversight and enforcement via sector regulators in terms of professional standards - their applicability to students during placements is unclear. This matters because, as will become apparent, research has consistently documented that the UK legal profession – across both its solicitor and barrister limbs - is far from immune from problems of workplace bullying, harassment and discrimination, with evidence of a disproportionate targeting of junior and / or female colleagues, and those from minoritised

[3] Hewitt et al (2022), op. cit. n. 2, at p. 111.
[4] Hewitt et al (2022), op. cit. n. 2, at p. 112.
[5] See, for example, 'Bridging the Bar' - https://bridgingthebar.org/; 'The 10,000 Black Interns Programme' – https://www.10000blackinterns.com/ ; or 'COMBAR' scholarships - https://www.combar.com/mentoring/.
[6] Hewitt et al (2022), op. cit. n. 2, at p. 126.

communities. Research exploring placements in other contexts has also highlighted an elevated risk of exposure to such misconduct amongst students, who are often disempowered in any reporting dynamic.

In what follows, I set out findings from scoping research that explored the potential for UK law students to experience or witness harassment, bullying or discrimination during their workplace placements. Though aspects of this discussion will have resonance to vacation placements undertaken by students in solicitors' firms, the study focussed particularly on 'mini-pupillages' undertaken at the legal bar. As will become clear, the often less structured processes for accessing and organising such opportunities within chambers, together with complexities arising from barristers' commonly self-employed status and the existence of a substantial body of prior research demonstrating a hierarchical and potentially exclusionary workplace culture at the legal bar, make it a particularly important site for consideration. In the first section, I explain the broad context in which mini-pupillages are conducted, drawing attention to existing evidence regarding the prevalence of bullying, discrimination or harassment at the legal bar and to the precarity of students' status and recourse in the event of experiencing or witnessing such misconduct during mini-pupillages. Thereafter, I analyse key themes arising from a series of interviews undertaken with students, university staff, barristers and sector regulators. Though a small sample, these interviews spanned a national geographical spread, with participation across universities with divergent approaches to clinical education and chambers of different sizes with varied approaches to running placement schemes. I argue that these discussions demonstrate the need for greater scrutiny in respect of how mini-pupillages are conducted, and increased clarity across chambers, regulators and universities about lines of communication and accountability regarding students' exposure to harassment, discrimination or bullying. I conclude by suggesting that more probing questions require to be asked of higher education institutions regarding their duties of care to law students, and that this might well require them to play a more active role in monitoring students' participation in, and experiences of, legal placements. While it has been convenient for many law schools to keep an 'arms-length' relationship to placements, thereby minimising administrative labour and accountability, this emerges as an increasingly untenable position. That universities should assume a more proactive role in terms of oversight of placements should not, however, be seen to imply any lessening of responsibility amongst the legal profession to ensure appropriate protection of students during work experience, and to provide mechanisms through which any bullying, harassment or discrimination that is witnessed by or targeted at students is effectively addressed.

Setting the Scene: Professional Legal Cultures and Vocational Training in the Shadows

Challenging or Changing: Working Lives at the Legal Bar

Though far from unique in this regard, research has documented the scale of the ongoing challenge in respect of reports of bullying, discrimination or harassment amongst those working in the UK legal profession, across its solicitor and barrister limbs. In regards to the legal bar, a 2021 report on 'Barristers'

Working Lives', commissioned by the Bar Council in England and Wales, revealed that - across a cohort of almost 3,500 respondents (representing approximately 20% of all barristers) - 30% reported personal experiences of what they considered to be harassment, bullying and / or discrimination at work within the past two years, and 26% had observed such behaviour being directed towards a colleague (either in person or online).[7] Female barristers were found to have experienced bullying, harassment or discrimination three times more often than their male counterparts, while barristers from non-white backgrounds were around twice as likely as white barristers to do so, and 45% of barristers with a long-term disability reported such behaviour compared to 27% of non-disabled counterparts.[8] While this data also suggested that there may be some areas of legal practice with an increased risk of exposure – specifically criminal and family practice – this finding interacts with the demographic profile of those practicing in these areas, which tend to include a higher prevalence of women; and, in any event, levels of reporting were high across all legal specialisms.[9] While 81% of respondents in the 2021 Bar Council survey reported that their workplace did have a policy relating to bullying, discrimination and harassment, which 9 in 10 designated to be 'fit for purpose', 17% said they were unaware of whether such a policy existed.[10] Amongst those barristers who had experienced bullying, harassment or discrimination in the last two years, 43% reported an incident, but in the overwhelming majority of cases, only to a peer rather than pursuing any formal mechanism.[11]

Findings from a follow-up Bar Council survey, in 2023, indicate that the reported scale of the problem of workplace bullying, harassment and discrimination has been steadily increasing. Indeed, some 44% of barristers surveyed reported that they had experienced or observed such forms of behaviour whilst working either in person or online (in contrast to 38% of respondents in 2021, and 31% in 2017).[12] As in previous surveys, these experiences were marked by gender, with 41% of female respondents reporting having experienced such behaviour in the last two years, compared to 19% of male respondents. Higher rates of reporting were also recorded amongst younger barristers, those from an ethnic minority background, those who attended a state school, LGBTQ+ barristers, and those with a disability.[13] In 62% of reported cases, the behaviour manifest in ridicule or demeaning language, and in 60% of cases in a misuse of power or position. Of the 122 respondents who reported experiencing or observing sexual harassment, 82% of cases involved sexual or sexist comments while 45% involved inappropriate physical contact.[14] 84% of those who completed the 2023 survey indicated that their workplace did have a policy relating to bullying and

---

[7] The Bar Council, 'Barristers Working Lives 2021', Report 567, (2021) Institute for Employment Studies, at p. 56 - available at https://www.barcouncil.org.uk/resource/barristers-working-lives-report-2021.html.
[8] The Bar Council (2021), op. cit., n. 7, pp. 58-60.
[9] The Bar Council (2021), op. cit., n. 7, pp. 57-58.
[10] The Bar Council (2021), op. cit., n. 7, p. 65.
[11] The Bar Council (2021), op. cit., n. 7, p. 65.
[12] The Bar Council, 'Bullying, Harassment and Discrimination at the Bar: Data from Barristers' Working Lives 2023 and Talk to Spot Reports Received by the Bar Council' (2023), at p. 3 – available at https://www.barcouncil.org.uk/static/5a630b6a-8e91-473f-bfa0cca11b707e42/Bullying-harassment-and-discrimination-at-the-Bar-December-2023.pdf
[13] The Bar Council (2023), op. cit., n. 12, at pp. 10-11.
[14] The Bar Council (2023), op. cit., n. 12, at pp. 13.

harassment, which reflected a slight increase on 2021 rates. However, there was a marked decline – from 92% to 76% - in those who indicated that they considered this policy to be 'fit for purpose'. While 15% of respondents said they had reported an incident of harassment or bullying, and 26% said they had reported discrimination, only 49% of those who made a report to their chambers or employer were satisfied with the response. Reports made to the Bar Standard Board and Bar Council's 'Talk to Spot' tool yielded even lower satisfaction levels (17% and 27% respectively).[15] The most common reason given by respondents who experienced or witnessed such behaviour, but declined to make a report, was fear of personal or professional repercussions, which accounted for 42% of responses. This was a significantly more common concern amongst females (48%, compared with 31% of men), with women being three times more likely than male counterparts to report being fearful that they would not be believed if they made a disclosure.[16]

Underscoring that this is not a position distinctive to the English and Welsh bar, a study published by the International Bar Association in 2019 had likewise documented that, in a survey completed by almost 7,000 respondents across 135 countries, 1 in 3 females and 1 in 14 males had been sexually harassed in a work context within the legal profession; and notwithstanding the fact that 53% of respondents' workplaces had policies designed to address such behaviour, in 75% of the cases where an individual disclosed an experience of sexual harassment, they did not make a formal report, which was attributed either to fear of personal or career repercussions or because they considered such behaviour to be endemic within the working culture.[17] Drilling down on the UK data in that study, findings chime with the Bar Council's recent reports: across the 715 respondents involved, 38% of females and 6% of males reported having experienced sexual harassment, with a persistently increased prevalence of victimisation amongst younger legal professionals in more junior positions, including as trainees.[18] Though at the time of the IBA study, 79% of legal workplaces in the UK reported having bullying, discrimination and harassment policies in place, respondents reported low levels of confidence in those policies or their enforcement. Indeed, 74% of those who disclosed having experienced such misconduct decided not to report the behaviour; and of those who did, 71% indicated that they felt the response they received was insufficient.[19]

The ways in which age / seniority, and gender or ethnic identity, can have composite impacts on exposure to bullying, harassment or discrimination have also been interrogated in England and Wales as a result of the Bar Council's 'Life at the Young Bar' report in 2022.[20] Across the cohort of 548 pupils and new

---

[15] The Bar Council (2023), op. cit., n. 12, at pp. 14.
[16] The Bar Council (2023), op. cit., n. 12, at pp. 15.
[17] International Bar Association (2019) 'Us Too? Bullying and Sexual Harassment in the Legal Profession', pp. 49-51; 62-67 - available at https://www.ibanet.org/MediaHandler?id=B29F6FEA-889F-49CF-8217-F8F7D78C2479
[18] IBA (2019), op. cit., n. 17, p. 96.
[19] IBA (2019), op. cit., n. 17, p. 96-97.
[20] The Bar Council, 'Life at the Young Bar', The Careers Research and Advisory Centre (2022), available at https://www.barcouncil.org.uk/static/d431b11f-bfc1-408a-a8abc634fab62a18/Life-at-the-Young-Bar-report.pdf

practitioners who responded to this survey, 46% of women had experienced bullying, discrimination or harassment in the last two years, compared to 15% of men. Junior colleagues from ethnic minorities were three times more likely than their white counterparts to experience discrimination; and for young barristers in particular the greatest proportion of bullying or harassment that they encountered was said to come from other barristers.[21] Though there was some indication in this 2022 data of an improvement in levels of reporting and resultant satisfaction with report handling through workplace complaint processes relative to previous baselines, the report continued to document substantial levels of under-reporting and a tendency, where reporting did occur, for this to be done on an informal basis to another barrister rather than through formal chamber / regulator processes.[22] Most recently, a 2024 survey of pupils in England and Wales, which was completed by 173 respondents, found that while 86% said that their overall experience of pupillage had been positive and 94% said that they would definitely or possibly recommend a career at the bar to others, 18% had personally experienced bullying, harassment or discrimination (either in person or online) during their pupillage, with a further 8% having observed such behaviour directed towards another.[23] Again, such personal experiences of bullying, harassment or discrimination were found to be significantly higher amongst women (28%) than men (3%); and pupils with a disability were particularly likely to experience such behaviour (41% compared to 13% of non-disabled counterparts). In 43% of the cases where this behaviour was experienced or witnessed, it was said by respondents in this study to have been committed by another barrister, with 21% reporting such conduct from their own pupil supervisor.[24]

Responses shared in this latter report also indicated the difficulties experienced by those on the receiving end of such behaviour in assessing its gravity. As one barrister put it, "I've heard comments said to others which made me feel uncomfortable…by a senior person in chambers in a 'workplace banter' context…I wish that there was an option not to be spoken to like that. But at the same time, it might just be the way that person communicates and it's not a huge issue."[25] This theme – of 'low level' inappropriate behaviour and the responsibility placed on those targeted by it to assess its severity against a context of tolerated norms of hierarchical engagement and 'workplace banter' – is one that will be returned to below. It is one that also resonates with findings of a 2020 study, which included in-depth interviews with 30 barristers and documented that the most common forms of behaviour experienced included inappropriate jokes, sexual innuendos, unwanted flirting, swearing and shouting, alongside unreasonable work demands. Much of this conduct was found to "slip through the net", however, due to the distinctive occupational culture of the legal bar and the less structured nature of its organisational or line-management systems.[26] In this context,

---

[21] The Bar Council (2022), op. cit., n. 20, pp. 35-38.
[22] The Bar Council (2022), op. cit. n. 20, p. 40.
[23] The Bar Council 'Pupil Survey, March 2024), p. 11 - available at https://www.barcouncil.org.uk/static/c5fd7261-a586-40ad-b26a61ebd083cf49/Pupil-Survey-2024.pdf
[24] The Bar Council (2024), op. cit., n. 23, p. 11 12.
[25] The Bar Council (2024), op. cit. n. 23, at p.12.
[26] YouGov, 'Bullying, Discrimination and Harassment at the Bar', A Report for the Bar Standards Board (2020), at p. 11- available at https://www.barstandardsboard.org.uk/static/896b55e0-72b2-4388-be291617735b8a25/e5923260-c53a-4176-8b6bc7d4c22f0fb4/October-2020-BDH-at-the-Bar-full-

the 'social' and 'referral' nature of professional life at the bar has also been noted to generate difficulties, including a reliance on hospitality to form and cement working relationships, with alcohol often used as a social lubricant. While the IBA study reported, for example, that sexual harassment was commonly perpetrated by non-supervisory colleagues at work-related social events, websites directed to students in the process of making applications for legal workplace vacation schemes often highlight the importance to the success of any subsequent placement of attending "the local pub" with colleagues.[27] In response to high-profile incidents where misconduct was found to have occurred in these contexts, some workplaces have taken mitigation action - in 2020, 'Linklaters' announced, for example, that "as part of a wider set of guidelines covering social activities, we have recommended to partners, directors and business leaders that they designate a non-drinking role to a senior person to assist the smooth running of our social events."[28] Around the same time, the Junior Lawyers' Division campaigned for "a healthier, more inclusive approach to work-related activities," which included decentring the role of alcohol in team-building.[29]

It is, of course, difficult to determine whether the increased reporting rates recorded across Bar Council surveys reflect an increased prevalence of bullying, harassment and discrimination, as distinct from an enhanced capacity to recognise such behaviour as problematic and a greater confidence to disclose. Either way, though, the Bar Council has recently acknowledged that the data indicate that "the level of bullying, harassment and discrimination suggests an entirely unacceptable state of affairs."[30] This recognition has now provoked the establishment of an 'Independent Review of Bullying and Harassment at the Bar', which is currently gathering evidence with a view to making its recommendations in 2025.[31]

The Precarious Position of the Student Placement-Holder

Notwithstanding variability in their size and operating processes, there are now procedures in place in most chambers designed to increase protection and redress to members in respect of inappropriate behaviours. These sit alongside systems of professional regulation that seek to enforce expected standards of conduct.

---

report.pdf' see also Nick Hilborne, 'Bullying at the Bar 'tolerated', with Pupils Suffering Most' (13 October 2020), *Legal Futures*, available at - https://www.legalfutures.co.uk/latest-news/bullying-at-the-bar-tolerated-with-pupils-suffering-most.

[27] See, for example, www.targetjobs.co.uk or www.allaboutlaw.co.uk 'Top Tips for a Vacation Scheme'.

[28] Legal Cheek (2020) 'Linklaters appoints sober supervisors to chaperone boozy social events' (report by Thomas Connelly, 13/1/2020) available at https://www.legalcheek.com/2020/01/linklaters-appoints-sober-supervisors-to-chaperone-boozy-social-events/.

[29] Law Society Gazette (2020) 'Time to tackle the law's drinking culture' (report by Manda Banerji, 20/1/2020) available at https://www.lawgazette.co.uk/commentary-and-opinion/time-to-tackle-the-laws-drinking-culture/5102720.article.

[30] The Bar Council (2023), op. cit., n. 12, at p. 5.

[31] https://www.barcouncil.org.uk/support-for-barristers/bullying-and-harassment/review.html.

Bullying and harassment are matters of serious professional misconduct under the Bar Standards Board Conduct Rules, with a duty imposed on barristers to report such misconduct when they encounter it.[32] Despite this, and irrespective of a mainstreaming of equality and diversity training, alongside ambassador and bystander interventions intended to promote cultural change, there is clearly still some way to go in overcoming barriers to disclosure, particularly in respect of complainants' confidence that reports will be taken seriously and not provoke detrimental professional consequences.[33] Recognising that – particularly in respect of what might be rationalised as 'low-level' behaviour – there may be some hesitancy amongst individuals to formally report to chambers or the BSB, the bespoke tool for reporting established by the Bar Council for England and Wales is also important. This platform – 'Talk to Spot' - allows barristers to record their experiences, and thereby inform understanding and reform of workplace cultures.[34] Since its inception in 2019, the platform has been increasingly utilised, and now receives an average of 5 or 6 records every month.[35] These have been in response to the behaviour of judges as much as other barristers, with key themes involving: patronising, belittling and demeaning behaviour; sexist, racist and ableist behaviour; rude and inappropriate comments being made online; and discrimination in relation to reasonable adjustments. Though such reports are often anonymous, and confidential to the Equality Team, they allow the Bar Council to "use the information to build a picture of what is happening" and "go back to complainants, even when we do not know who they are, to offer support, reassurance and information."[36]

But while this emerging infrastructure has certainly increased the opportunities for reporting, recognition and potentially redress amongst clerks, barristers and pupils working in chambers in England and Wales, the position of the student mini-pupil who experiences or is exposed to bullying, harassment or discrimination remains unclear and precarious.[37] This is because the protection afforded to students during their pre-qualification period, whether through employment or equality law, is complex, fragmented and incomplete. Even within the more formalised human resources structures of many solicitors' firms, students' entitlement to employment law protection during placements will depend on their ability to meet the criteria of being a 'worker' as distinct from a 'volunteer'. Provision of payment for their time and labour is often a good indicator of worker status, but it may not be determinative; and in any event, there is currently variable practice across legal vacation placements in regard to such remuneration for students. Though the definition of 'in employment' under the Equality Act 2010 is potentially broader and more

---

[32] https://www.barstandardsboard.org.uk/static/1e61994f-c558-430b-9c7b7034081df4b7/Reporting-Serious-Misconduct-of-Others.pdf

[33] YouGov (2020), op. cit., n. 26; See also The Bar Council (2023), op. cit., n. 12, at p. X

[34] https://www.barcouncil.org.uk/support-for-barristers/equality-diversity-and-inclusion/talk-to-spot.html.

[35] The Bar Council (2023), op. cit., n. 12, at pp. 16.

[36] The Bar Council (2023), op. cit., n. 12, at pp. 21.

[37] See, also, in the Australian context - Anne Hewitt, Rosemary Owens, Andrew Steward and Joanna Howe, 'Are Work Experience Participants Protected Against Sex Discrimination of Sexual Harassment?' (2021) 46(2) *Alternative Law Journal* 115-119; Alysia Blackham, 'Equality Law Protection for Legal Education: Internships, Volunteering and Clinics' (2024) 34(2) *Legal Education Review* 1-21.

flexible than its employment law counterpart, the extent to which students would be determined to fall within its ambit, as distinct from being volunteers, also remains unclear. Where placements are secured through more formalised rounds of open competition, there may be greater scope for evidencing an undertaking to give, and complete, work between the parties; and certainly, working to gain professional experience as an intern within an organisation has been suggested to entitle individuals to protection under existing arrangements, even where they lack a formal employment contract. However, particularly with mini-pupillages, placement arrangements are often short-term in duration, without remuneration or even expenses paid, and they may be applied for and organised more informally. To date, calls to extend protections under the Equality Act 2010 to all volunteers and interns in workplaces as a matter of right have been resisted by the Government, albeit with an acknowledgment that good practice dictates that all participants within a workplace, regardless of formal status, be treated with respect, dignity and equality.[38]

Thus, it remains a matter of degree and uncertainty as to whether a student placement arrangement will be considered sufficiently formalised to come within the boundaries of legislative protection, with voluntary work that is more localised and ad hoc still unlikely to be considered appropriately included. Amongst the consequences of this is that students may not be adequately considered by, or included in, workplace policies regarding the reporting of inappropriate behaviour, and there may be a lack of clarity both regarding the scope of their protection and the mechanisms by which they should register a concern. This applies too to the 'Talk to Spot' platform which, though capable of operating with more flexible parameters, is primarily designed as a peer report and support tool. Indeed, despite rejecting proposals to extend protections under employment law fully to this cohort, the Government has itself recently acknowledged that volunteers / interns can be "particularly vulnerable" and that, where sexual harassment occurs, "they may be less likely to report it, either because they do not know what their rights are or because their position, both legally and in the organisation, is more precarious than that of an employee."[39]

An alternative avenue to protection that might be uniquely available to students undertaking placements as part of their degree would be to make a claim under Part 6 of the Equality Act 2010, which deals with discrimination in education.[40] This most clearly applies, however, to circumstances where the placement forms an accredited and integrated part of the academic programme provided by the higher education institution – for example, within the 'sandwich degree' model referred to above. Though it may extend to

---

[38] Women and Equalities Committee, 'Sexual harassment in the workplace,' HC 725 (2018), available at https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/725/725.pdf; Equality and Human Rights Commission (EHRC) (2019) 'Our response to the consultation on sexual harassment in the workplace' available at https://www.equalityhumanrights.com/sites/default/files/consultation-response-sexual-harassment-in-workplace.pdf; Equalities Office, 'Consultation on Sexual Harassment in the Workplace: Government Response' (2021) (London: HMSO), available at https://www.gov.uk/government/consultations/consultation-on-sexual-harassment-in-the-workplace/outcome/consultation-on-sexual-harassment-in-the-workplace-government-response.

[39] Equalities Office (2021), op. cit., n. 38, at p.16.

[40] *Blackwood v Birmingham and Solihull Mental Health NHS Foundation Trust* [2016] EWCA Civ 607.

other circumstances of vocational training, which might encompass work experience, it is an open question whether it would reach as far as protecting undergraduate students who, despite often being encouraged to do so by law schools and university careers advisors alike, are not required to undertake mini-pupillages as part of their degree and are not directly assisted by the university in sourcing, securing or undertaking them. Thus, as Hewitt et al have put it: "a significant issue with work experience is that it often straddles the line between work and education…(but) this can be a critical distinction in terms of the protections offered to participants."[41] Significantly, in this respect, the precarity of protection afforded to this cohort of students is itself created and maintained by the fact that placements have remained informal in nature in many UK law schools, and not typically brought 'in house' to be subject to the oversight mechanisms in place in regard to other university secondments. Thus, as Blackham has recently observed in the Australian context, "despite the proliferation of 'practical' legal education, there has been less concern for how students participating in these 'practical' educational activities are protected by equality law…This is a significant gap given discrimination and sexual harassment are rife in the legal profession."[42]

This question of how students are categorised during workplace placements – as employees, workers, interns, or volunteers – can thus have tangible consequences in terms of their rights and entitlements, as well as the availability of appropriate avenues of reporting and redress. Research documenting students' experiences of conducting industry placements and vocational internships in other professions does little to assuage concerns about the implications of this gap. Indeed, just within the past year, for example, studies in the UK and elsewhere have reported on: the prevalence of discrimination, sexual harassment and unfair treatment encountered by student nurses during clinical placements;[43] experiences of aggression, disrespect, and exclusion amongst medical students undertaking hospital training;[44] and bullying directed to student occupational therapists during placements that resulted in substantial loss of confidence, panic attacks, anxiety and a disengagement from the profession as a future career path.[45] These studies obviously only offer snapshots of insight, and across very different institutional and employment contexts. Nonetheless, when coupled with the findings above which, across a body of surveys, document the continued scale of bullying, discrimination and harassment experienced at the

[41] Hewitt et al (2021), op. cit, n.37, at p. 115.
[42] Blackham (2024), op. cit., n. 37, at p.2.
[43] Chenel Walker, Cerisse Gunasinghe, Hannah Harwood, Annahita Ehsan, Farah Ahmend, Sarah Dorrington, Juliana Onwumere, Paula Merez, Nathan Stanley, Nkasi Still, Charlotte Woodhead, Stephani L. Hatch and Rebecca D Rhead, 'Ethnic Inequality during Clinical Placement: A Qualitative Study of Student Nurse's Experiences Within the London National Health Service'(2024) 80 *Journal of Advanced Nursing* 1497-1510; Ella Smith, Janice Gullick, Dawn Perez and Rochelle Einboden, 'A Peek Behind the Curtain: An Integrative Review of Sexual Harassment of Nursing Students on Clinical Placement' (2023) 32 *Journal of Clinical Nursing* 666-687.
[44] Marcus Henning, Josephine Stonyer, Yan Chen, Benjamin Alsop-ten Hove, Fiona Moir, Ties Coomber and Craig S. Webster, 'Medical Student's Self-Perceptions of Harassment During Clinical Placement' (2024) 34 *Medical Educator* 103-112.
[45] Pavli Dhillon, Lisa Mahil, Jeffrey D. Boniface, Danielle Burrell-Kim and Donna Drynan, 'Student Occupational Therapists' Experiences of Bullying in Placements: Exploratory Study Across Canada' (2024) 8(2) *Journal of Occupational Therapy Education* at https://encompass.eku.edu/jote/vol8/iss2/12/.

legal bar – with evidence of pronounced exposure amongst junior colleagues – they highlight the need for the legal profession and academy to scrutinise students' experiences of placements more robustly.

First Steps into the Field: Exposure and Expectations

Against this backdrop, in summer 2023, I undertook a scoping study to explore 'known unknowns' regarding students' exposure to bullying, discrimination or harassment during mini-pupillages in England and Wales, and to evaluate existing mechanisms for capturing and responding to such experiences.

It had initially been intended that the study would involve a first-stage survey to gather information across a wide cohort of students. However, constraints associated with the funding timeline, together with difficulties in distributing via student law societies, meant the response rate was ultimately very disappointing (n=14). Of those who completed the survey, 65% (n=9) identified as female and 35% (n=5) as male. The majority (n-=11) listed their sexual orientation as heterosexual, and half were aged between 21 and 24 years, with the remainder divided almost equally between the age groups of 18-20 and 25+ years. 7 students recorded their ethnicity as Asian, 4 as White, 2 as Black (African, Caribbean) and 1 preferred not to say. The cohort spanned 9 UK law schools, with all students having completed at least one work placement during their degree to date, and over half of respondents having completed two or more.

By asking survey respondents to complete questions regarding each experience separately, we were able to gather information in relation to a total of 25 placements. The majority of these were reported to be of 1-2 weeks duration, with a mix of mini-pupillages and activities in solicitors' firms. In respect of 21 of the placements, students either agreed or strongly agreed that the working environment was professional, and in respect of 19, they either agreed or strongly agreed that they were satisfied with their experience. However, views regarding their ability to confide in colleagues or express their opinions were more mixed – respondents were most commonly 'neutral' (n=11 of 25) in terms of their confidence to confide in colleagues, and in almost half of cases were either neutral or in disagreement with the suggestion that they felt able to give their opinions during the placement. In 13 of the 25 placements, students reported that they were not provided with a mentor, and other than in 2 cases where they were given generic information about professional responsibilities, none reported having received any signposting around who to contact if they witnessed or experienced bullying, harassment or discrimination. Though in 18 of the placements, students reported that they neither witnessed nor experienced such behaviour, in 7 instances, they disclosed that they did, with the behaviour mostly involving inappropriate comments regarding gender, sexuality, race, class or disability. On none of these occasions did the students make any complaint.

Though helpful in framing lines of enquiry for the second, interview-based, phase of the study, these survey results are clearly too limited to yield robust quantitative data. As such, the remainder of this article relies solely on findings from semi-structured interviews (n=17) conducted with a range of stakeholders.

Participants here were comprised of: students who, in completing the survey, agreed to a follow up interview (n=4), personnel involved in running or overseeing mini-pupillages within chambers (n=8), university-based professionals across academic and careers services (n=3), and sector regulators (n=2). This clearly remains a small sample, but it provides some representation across key stakeholders from different parts of the country, and spans chambers of different sizes with divergent approaches to running mini-pupillage schemes, as well as universities with a range of approaches to clinical legal education.

It was clear in the interview recruitment phase that, despite extensive efforts through mailshots and snowballing methods, there was some hesitancy amongst university personnel in particular to participate, with several indicating that they did not feel well-positioned due to a lack of relevant expertise to draw upon. While chambers and regulators were somewhat more forthcoming (and we were assisted in our recruitment by the Bar Council), interviews with these cohorts still came to focus more on the design of mini-pupillage schemes and the perceived benefits that students secured therefrom, with reflections around exposure to inappropriate behaviour being brief and typically speculative. All interviews were based on a schedule that included open questions addressing key aspects of the research, whilst allowing flexibility and fluidity in what respondents considered to be priority issues. In practice, it was clear that the need for this flexibility was substantial given participants' varying degrees of confidence in responding to the key research questions. This, in itself, can be seen to reflect the extent to which this is a topic that has often 'fallen through the cracks' of the infrastructure and imagination of higher education institutions, and suggests that - even among those tasked directly with organising mini-pupillage schemes - there was an absence of prior reflection around students' potential exposure to bullying, harassment or discrimination.

Discussions were conducted on MS Teams. Their duration ranged significantly, from 22 to 50 minutes, but typically lasted 30 to 40 minutes. With the interviewees' permission, discussions were audio and video recorded, and then transcribed by a professional firm under a confidentiality agreement. Any information that would have allowed participants to be individually identified was removed, and quotes are only attributed to generic identifiers. Transcripts were uploaded to NVIVO 12 for thematic coding, using a combination of deductive and inductive approaches to generate a consistent coding frame that addressed, for example, descriptions of the working culture at the bar; the arrangement of mini-pupillages; barriers to reporting misconduct; and mechanisms for oversight and accountability in relation to student placements. Interviews with students also asked specifically about their experiences – positive or otherwise – of undertaking mini-pupillages, the process by which they secured the placement, the extent to which they were aware of reporting options in relation to misconduct, and the role they felt their university play in encouraging, overseeing or safeguarding in relation to their engagement in placements.

In what follows, I explore participants' views regarding the working culture at the legal bar and the extent to which this might expose students to inappropriate behaviour during their workplace placements. Thereafter, and using the experiences narrated by two student interviewees as case studies, I give some

added texture to the nature of that potential exposure, and how it may be received and responded to. I use these accounts to open up, in the third and final part, the question of the role and responsibility of higher education institutions in this context, both as things currently stand and as things might optimally be.

Working Culture at the Bar: Mini-Pupils' Exposure and Empowerment

Professional interviewees were typically candid in relation to the peculiarities and problems of the working culture at the legal bar, and the ways in which it could create an environment in which bullying, harassment or discrimination is tolerated. Placement 1, who helps coordinate a national mini-pupillage scheme, talked, for example, about the frequency of "low level" conduct that creates a "non-inclusive environment" - whether in relation to race, gender or socioeconomic status. Though Placement 1 underscored that such conduct should be challenged, they accepted that it rarely is in practice, either because individual incidents are discounted as insufficiently serious to merit a complaint or recipients are hesitant to report due to perceived risks to career progression. Regulator 2 reflected that "there's still a lot of evidence of harassment, bullying, discrimination and that can manifest through several different ways, through microaggressions and so on." Meanwhile, Regulator 1 observed that, whilst "the bar's culture is in flux" and "diversity is improving," it is still a "very traditional" and "difficult" workplace, grounded in individual competition with "everything predicated on a kind of white male model". In particular, Regulator 1 referenced the bar's "very hierarchical" structure and the fact that it is a "gossipy" profession as posing particular problems. They also highlighted that the semi-autonomous working practices of many barristers created specific challenges to changing cultures: "you've got this self-employed individual who's not in an employment relationship but is vital to chambers and if they misbehave…it's not as simple as just simply firing them. I mean you can ask them to leave chambers but there is a financial cost to that happening, and chambers can be quite fragile and very much relationship-based, so it creates a really interesting environment to work in and unfortunately an environment in which harassment, bullying and inappropriate behaviours thrive because it's got all the ingredients of that power imbalance and abuse of power."

The low status, within this hierarchy, of students undertaking vacation placements, combined with their young age and inexperience of working environments, was identified by several participants as positioning them, potentially, at heightened risk of bullying, harassment or discrimination. At the same time, however, the relatively curtailed nature of many mini-pupillage schemes was also pointed to by interviewees to suggest that their degree of exposure could be substantially lessened. Our data certainly highlighted the variability that exists, not only in the operation, size and structure of chambers, but in how mini-pupillages are secured, conducted, and evaluated. Although, across the sector, there has been a shift towards more formalised processes, some chambers that we spoke with continued to host students for more ad hoc forms of shadowing and mentorship. Chambers 6 reported, for example, that it was "quite common" for "members of chambers to bring their own mini pupil in" outside of formal processes, and that this would typically be someone connected to them personally or socially. Likewise, Chambers 7 commented that,

while it doesn't happen "very much", they do have barristers who bring in their own mini-pupils outside of a formalised scheme: "we take the view that if a person wants to have their neighbour's child with them for a few days or something like that, that's kind of up to them." These chambers highlighted that such informal placements could not be labelled on CVs as mini-pupillages, and that students who undertook them may have a less varied and valuable experience. However, there was little apparent reflection around how such informal arrangements for those with sufficient social capital to source them might diminish the capacity for, and availability of, opportunities to others on a more equitable basis, nor around how their lack of oversight might present additional challenges in terms of managing and responding to misconduct.

In terms of more formalised mini-pupillage schemes, all the chambers that we spoke with indicated that the main way in which these were advertised was via their website, with direct applications from students. Some also took students from externally run mentorship or access schemes. All underscored the highly competitive nature of the application process, with Chambers 2 reporting that they typically received around 150 applications for 10 placements. Across these schemes, there was considerable variety in how they operated and whether the student, or scheme, was evaluated in any way at the end of the process. Some were designed, for example, with designated mini-pupil liaisons in chambers, specific tasks and mechanisms for assessing students' performance; whilst others provided more informal 'shadowing' dependent on case listings in any given week and lacked any assessment or feedback mechanism. Chambers that adopted the former approach often reported that they reflected carefully around "the members of chambers who would most likely be good at" this mentoring and liaison role (Chambers 3), with a tendency to allocate it to more junior colleagues with whom it was anticipated that students "can be more relaxed" (Chambers 4). While in some placements, students stayed with the same barrister for the duration, in others they rotated daily to ensure they "are not placed with the same barrister more than once" (Chambers 4). The feasibility of doing this depended, of course, on the duration of the mini-pupillage itself, which varied from 2 days to 2 weeks across the chambers with whom we conducted interviews.

This reality that mini-pupillages are often relatively short in duration, with much of students' time being devoted to shadowing barristers in courtrooms or client meetings, might reduce their exposure to the forms of bullying, harassment and discrimination more widely reported amongst junior colleagues at the bar. So too, the balance between greater exposure to more personalities for shorter periods of time versus more concentrated exposure to one person may impact in different ways, as might the decision to allocate responsibility for student mentorship to junior rather than senior colleagues. But our interviewees never went so far as to suggest that these factors would eliminate the risk of students' exposure to inappropriate behaviour, and there have been documented incidents of inappropriate treatment of mini-pupils in the UK

and internationally.[46] In that context, an induction that sets out respective expectations in relation to professional conduct, and informs students of the processes by which to raise concerns would seem key.

It was far from clear that this was routinely in place, however. Indeed, though interviewees from chambers typically expressed their confidence that students would be knowledgeable about, and comfortable in using, channels to report any concerns about bullying, harassment or discrimination, this was rarely directed covered - in writing at least - with students as part of any induction. Though some chambers said that they would routinely refer students to their website, which included information about policies and reporting processes, they acknowledged that these were not designed with mini-pupils in mind and that, in practice, they would need to be modified on an ad hoc basis for this cohort. This inevitably means that the ability of student mini-pupils to make an informed decision regarding whether or how to report misconduct will be compromised in a context in which Regulator 2 had specifically underscored the importance of structural support to ensure that students "feel empowered to actually make complaints."

While a lack of student complaints having been received was often interpreted by chambers interviewees as indicating the success of their mini-pupillages and as evidencing the fact that there had been no cause for concern in relation to exposure to bullying, harassment or discrimination, a small number of participants were more circumspect about the existence of alternative explanations, particularly given barriers to disclosure. Chambers 3 noted, for example, that "one of the things that is difficult is getting people to speak really honestly about their experiences," while Chambers 4 reflected that "we've never actually had any negative feedback…(and) that's the problem isn't it?". Though some felt that willingness to speak out was likely to be dependent on individual personalities - "some are very confident, outspoken, and some are very quiet, and therefore I wonder whether some would feel more confident in coming to speak to you about something…I simply can't tell" (Chambers 2) - others pointed to more systemic barriers. Regulator 1, for example, suggested that, at the legal bar, "your success is dependent so much on others," which can produce "a heady mix of potential for abuse" that coalesces with a "culture of silence" since junior members, including mini-pupils, "don't want to offend or get a reputation of being difficult in any way." Meanwhile, Placement 1 provided a specific example drawn from experience: "we had a candidate that had an unfortunate incident of a racialised comment on one of her mini-pupillages…her largest worry, and we didn't end up taking it forward because she was very worried about it, was that…she would be identified by this chambers and then it would…follow her through her career."

---

[46] Neil Rose, 'Male Barrister Suspended for Lewd Comments Aimed at Female Mini-Pupils' *Legal Futures* (23rd March 2021), available at – https://www.legalfutures.co.uk/latest-news/male-barrister-suspended-for-lewd-comments-aimed-at-female-mini-pupil; Margaret Bazley, 'Independent Review of Russell McVeagh', available at https://img.scoop.co.nz/media/pdfs/1807/IndependentReviewofRussellMcVeagh2018.pdf.

In addition, it was apparent that – even within the confines of existing workplace policies and professional conduct obligations – it was often felt to be a "delicate thing" and a matter of "fact and degree" (Chambers 5) to assess whether a complaint would be sufficiently serious to merit taking action. Though Chambers 1 insisted that, if a student were to make a complaint, "it would be rigorously investigated," they went on to explain that the precise mechanism for handling it would depend on the perceived severity of the effects and degree of misconduct, with 'lower-level' complaints likely to result simply in reallocation of a mentor rather than any formal escalation. Though it is, of course, appropriate to consider proportionality of response, this raises difficult questions about how to determine severity, against what context of normalised behaviour, and upon whose evaluation. Regulator 2 noted that "chambers will have their own individual processes that will assist them in basically saying how serious the misconduct is," and these will be determined – amongst other things - by "how the pupil reports it and how serious the pupil makes out the perceived act to be." But such an approach places substantial weight on the ability of the student to identify conduct as bullying, harassing or discriminatory, to know where and how to make a complaint, and to hold firm to that experience, notwithstanding what might be presented to them as the norms of 'workplace banter' that make the conduct less problematic, and despite perceived risks to their career progression. As discussed below, the narratives shared by student participants demonstrate that this risks leaving harmful patterns of exclusionary and inappropriate conduct uncorrected; and can have particularly pronounced impacts on students 'testing' the environment of the legal bar during mini-pupillages to determine if this is a professional space in which they would be welcomed and supported.

Troubling Narratives of 'Successful' Legal Placements

In line with their survey responses, there was a consensus across the 4 students who participated in research interviews as part of this study that undertaking their mini-pupillage(s) had been valuable in terms of their career development. Student 1, for example, commented that their placements "have definitely been insightful" and "definitely motivated me" to secure employment at the bar. This was so irrespective of whether students also reported having experienced or been exposed to bullying, harassment or discrimination. Indeed, Student 1 recounted repeated instances in which she felt uncomfortable as a result of inappropriate comments or behaviour from barristers, but presented this as part of the 'insight' she secured from the mini-pupillage in terms of the challenges of diversity and culture: "it's been really beneficial for me to, on one side to be able to know I can get there…, but on the other side know what the working environment is like: because I've always worked throughout my education and you kind of pick up on real life experience when you're working and how you cope with a working environment." Not dissimilarly, Student 2, who shared experiences of exclusionary behaviour during their placement, reflected on the extent to which "a takeaway" lesson for them had been the extent to which "I was going to be a minority in many senses" in pursuing a career at the commercial bar: a lesson that did not deter them from that ambition, but alerted them to the challenges of personal and professional 'fit' in this space.

It is important to be clear that there were students who completed the survey, some of whom we spoke with, who had only positive experiences to report in relation to their mini-pupillages. Professional interviewees across the study were also rightly keen to express gratitude to the barrister mentors who take on this role, voluntarily and in addition to an already substantial and stressful workload, to ensure the future flourishing of the legal bar. Nonetheless, even amongst our very small set of survey responses, 7 of the 25 placements covered were reported to have involved students witnessing or receiving comments or behaviour from barristers that appeared to reflect discriminatory attitudes in relation to race, class, gender, sexuality or disability. In this context, the accounts provided by Students 1 and 2 merit greater exploration, since they illuminate several of the concerns raised above regarding the overall working culture at the legal bar, the ways in which students might be exposed to inappropriate behaviour even within short and structured mini-pupillage schemes, and the significant barriers to reporting within current frameworks.

Student 1 spoke repeatedly about "micro-aggressions" associated with gender and socioeconomic status that had been directed towards her, and others, during placements, particularly in chambers that lacked diversity and "still treat the bar like a very prestigious little club." More specifically, she recounted an experience where a barrister made derogatory comments about a client, which she considered to be targeted at their working-class status. Student 1 reflected on how, during and in the aftermath of that exchange, she was made to feel uncomfortable: "the micro-aggression came from the fact that he [the barrister] felt so comfortable saying what he did in front me when I've clearly got a working-class accent and knowing that I wouldn't say anything back." In addition, Student 1 reported a separate incident, on a second placement, where she was "sitting in a robing room with male barristers, who were all discussing which female judges wanted to sleep with them and gave them an easier time in court due to the fact that judge fancied them: they laughed at their misogynistic expressions whilst being aware I was in the room."

Meanwhile, Student 2 reported being "repeatedly corrected for misuse of the English language" by the barrister that they were paired with during a placement. They described feeling "attacked when I was constantly being corrected for just speaking" by a barrister who would "have 15 minute conversations on my incorrect grammar" and "continuously use sophisticated language" despite Student 2's repeated disclosure of a dyslexia diagnosis. Student 2 also recounted how the same barrister juxtaposed this insistence on formality with apparent "attempts to build rapport by randomly saying Asian words" as slang, and "expecting a response" from the student because they were of Asian ethnicity, which made Student 2 "feel incredibly uncomfortable." Student 2 reported that, during one session of shadowing, this came to a head: having encountered "one incident of racist undertones by a clerk in the Crown Court" that morning, which they preferred not to detail to us further, Student 2 felt increasingly dismissed by the barrister – "I apparently was a massive burden and he was making a comment about it" to others around him. At this, Student 2 contacted the chambers to request to be allowed to leave court early that day, which they did.

Student 2 raised concerns to chambers, in order to allow them to be excused early, and subsequently sent an email - at the receptionist's invitation - explaining "what had happened throughout the day, first, with the judicial assistant and then with the barrister. And that I just felt uncomfortable and disheartened and then I left." At no point, however, were they informed of any process for making a formal complaint and nor were they aware of whether any action was taken by the chambers. Student 2 reflected on the challenges of having their experience recognised as serious enough to merit action - "it was one of those situations where no matter what my reaction it was going to be an overreaction because everything was really subtle." But they also still felt that some acknowledgment of the impact upon them, and some mitigation for future mini-pupils, would have been appropriate – "I asked if [the barrister] could apologise just because it was really uncomfortable, not only for me but everybody…it was just such an uncomfortable situation to be in, and it was public…but I haven't received anything from them." When asked in discussion if they had considered pursuing the complaint further, however, Student 2 responded that while the incident and report could have been better handled, they were unsure "it warranted a formal complaint" and in any event said that they would not want to "disrepute my name" or "jeopardise my networking efforts" by making it.

Student 1 likewise did not raise any complaints. In relation to the incident with the working-class client, she reflected that "I really wanted to say something…but I just bit my tongue because he wasn't going to listen to me…I'm in London for one day with this guy, there's no point in my kicking up a fuss when he's not going to, I'm not going to change his opinion either way." Meanwhile, in respect of the incident in the robing room, Student 1 commented that – in the moment of its occurrence - she felt "out of place in saying anything as a mini-pupil and it felt like that was the legal culture." And although, subsequently, "I realised actually that it is quite messed up," she reported that, by the time she got home that evening, she was able to "laugh" it off and just "thought 'what on earth, like, is that what they've just said'." Reflecting on her reactions across both experiences, Student 1 underscored wider power dynamics at play in disclosure, and the perceived message that she should cope with rather than challenge problematic cultures: "my thought process was, you're a mini-pupil and you're like this miniscule, these are working barristers in a chambers where they are bringing in money and doing their thing…it was kind of a realisation for me, if you go into any working environment there are things about that environment that you have to navigate."

These reflections echo observations from other stakeholders, discussed above, regarding the hierarchical and close-knit nature of the profession, and the disempowered position of students within it in terms of the reputational repercussions of making a complaint. They also sit in line with previous research involving student placement-holders in other professions which has consistently revealed a hesitancy to report. Dhillon, for example, cites a number of studies involving student cohorts which document that more than 70% of those who encountered bullying during placements did not report it, with the most common explanations being embarrassment, fear of retaliation or consequences, or the power imbalances

involved; with some indicating they felt that nothing would be done about it, did not consider it sufficiently important to report, or were unclear on what the process would be to make a report in any event.[47]

In addition, particularly in occupations where such behaviour is perceived to be more ubiquitous and normalised, researchers have highlighted a theme of students being fearful that a complaint would imperil their future job prospects: believing that, to some degree at least, their experience was a 'rite of passage' in a profession that required them to have a 'thick skin.'[48] This speaks to the assessment provided by our law student participants, including those who experienced negative treatment, that the mini-pupillage placements had, on the whole, still been valuable to them. It is also a finding that chimes with recent US literature regarding law graduates' experiences as judicial clerks.[49] In that context, Litman & Shah have underscored that "former clerks may describe a clerkship in vague terms such as demanding, intense or unreasonable, or even describe particular incidents [of abuse], but also state their overall assessment that the clerkship was 'worth it'."[50] This perpetuates a status quo in which inappropriate behaviour goes unchallenged, with little incentive for candour to future cohorts amongst those who have gone through placements. To the contrary, "these statements communicate to students that accepting abusive or harassing behaviour is worth the cost because accepting the behaviour is professionally and personally advantageous…[it] implies that good lawyers and clerks should be able to endure an abusive workplace."[51]

Coming Out from the Institutional Shadows: The Role and Responsibility of Law Schools

The traditional model whereby professional training for those seeking a career in legal practice is concentrated in the period after completion of the LLB degree is clearly in flux across many UK law schools. But even prior to reform of routes to practice initiated through the SQE for solicitors, this was something of an artificial distinction. Though law is not a purely vocational subject, funding for professional training has increasingly depended on students' cultivating a profile during their undergraduate degrees in which (amongst other things) vacation placements or mini-pupillages have been secured and completed. The ambiguous role of university law schools within this training ecosystem – in terms of their encouraging and facilitating, but not typically arranging, placements - was highlighted by several of our interviewees.

---

[47] Dhillon (2024), op. cit. n. 45, at p. 3.
[48] Lea Budden, Melanie Birks, Robyn Cant, Tracy Bagley and Tanya Park, 'Australian Nursing Students' Experiences of Bullying and / or Harassment During Clinical Placement' (2017) 24(2) *Collegian (Royal College of Nursing, Australia*) 125-133.
[49] Aliza Shatzman, 'The Clerkship Whisper Network' (2023) 123(4) *Columbia Law Review Forum* 110-145, at p. 130.
[50] Leah Litman and Deeva Shah, 'On Sexual Harassment in the Judiciary' (2020) 115(2) *Northwestern University Law Review* 599-646, at p. 623.
[51] Leah Litman and Deeva Shah (2020), op. cit. n. 50, at p. 623.

University 1, who is responsible for 'student employability' at a leading law school, told us "I pride myself on having that relationship with students to know that you come to me if there's any issues." Equally, they went on to note that "I alert students to mini-pupillage opportunities, internships, but that's more of a signposting, these are available, please apply. So if a student was, you know, did get a mini-pupillage, there's not a reporting system in place for the student." Meanwhile University 2, a central careers advisor, highlighted that it was their role to "collect information about opportunities that are available," "work out how to promote those to the students verbally through other law staff, online, or events," and "make sure that the students have several opportunities to learn how to apply to those opportunities and to master the skills that they need to successfully tell the legal employers that they have what they're looking for." This may include hosting events to bring firms or chambers to campus to meet students, in the hope that this will increase rates of (successful) application which, in turn, it is anticipated will increase the employability of the university's graduates in due course. However, since these are not formal "sandwich placements" in the law degree, University 2 noted that their role would limited to "assisting [students] in finding them and…in applying and interviewing for them, rather than monitoring them when they're out on them."

The arms' length nature of this relationship was also reflected in students' contributions, in which it was rare for them to attribute their decision to take up an external mini-pupillage directly to the actions or "encouragement" (Student 2) of their law school. Indeed, though Student 1 indicated that a subject tutor had drawn the placement opportunity to their attention and "suggested it was worth going for" because of her particular career ambitions, they also indicated that "I was going to go for it anyway." Student 1 highlighted that this was because "I was very on top of it from the very beginning…I didn't have the networks and connections, so… if I wanted to succeed at the bar I was going to have to get my cultural capital up." Equally, however, Student 1 also acknowledged the use that they had made of support within the university as part of this process: aware of the importance of them securing work experience, they reported that "I was able to go to the careers advisors to get a bit more advice on that from them or my personal tutor."

Against this background, it was clear that the students we spoke with also did not typically consider the university to be a site of recourse where they or their peers experienced bullying, harassment or discrimination during placements. Even Student 1, who spoke of having a particularly supportive relationship with a subject tutor and having made extensive use of the university careers service to assist with applications, observed that "universities have very little to do with mini-pupillages…So I'd rarely take…the experiences I was having in a chambers back to university. For me they were two separate things." Likewise, Student 2, despite reporting an experience that caused them distress to chambers, did not appear to contemplate the possibility of sharing this with the university: "it was so external and unlinked…I just thought it wasn't anything of their business or anything they could have done anything about. I just didn't mention it, I just went back to classes." When encouraged in the interview to reflect on this, Student 2 added: "there should perhaps be some sort of reasonable expectation given to students about what these [placements] entail. We fight so hard to get these experiences, training contracts and

mini-pupillages, but there's not any reasonable expectation of what could happen in them, what is a good one, what is a bad one, and what support they could get from the university if something did go bad."

The uncertainty of this terrain was also reflected in the way in which University 2 spoke about their role. On the one hand, University 2 commented that "if somebody had suffered what they believe was bullying or harassment or an injustice of any type when it was part of an external programme *that had nothing to do with us* (emphasis added)…I think they would be encouraged to follow the formal channels of that external organisation." At the same time, however, they went on to discuss a specific example encountered in a previous role, in which a student reported feeling uncomfortable with her treatment during a placement and it emerged that a similar concern had been raised in relation to the same mentor by a student a few years previously. In this instance, the university took the view that "it wasn't tangible enough for anything to be done" in the way of a formal process but "decided not to use that person ever again." Though this was in the context of a placement at least partially overseen by the university, University 2 suggested that this reflected a "duty to protect" students which was of wider applicability. Indeed, as they put it, "if the university advocates that this is an essential part of [students'] professional development, even if we're not responsible for that, I would want to make sure every experience they have is as positive as possible."

Amongst participants from chambers and regulators, there was also little clear sense of whether the university had, or should have, any accountability in relation to mini-pupillage schemes, or where the appropriate boundaries of that might lie. Chambers 3 remarked, for example, that "we don't have a relationship with the university." In the event that a student experienced bullying, harassment or discrimination, they opined that while "from a purely sort of pastoral point of view,…I wouldn't discourage a person from talking about that experience with anyone that they thought it would be helpful to discuss it with," it would not be an appropriate reporting route since "the university has no role in investigating the complaint or at least not in a way that is anything other than hypothetical." Though Chambers 3 defended this on the basis that "the people we're dealing with are adults who are not applying to us through their university," Regulator 1 suggested there might nonetheless be some role for institutions to play, at least to the extent that they could provide reporting mechanisms that could then 'feed into' chambers, the Bar Standards Board, or the Bar Council's 'Talk to Spot' platform. Though anticipating some resistance because of "how fraught this whole area is as far as confidentiality" and "you've got a very litigious community here," Regulator 1 maintained that "there has to be some sort of system because I think the universities should be under an obligation in some way to let people who can do something about it do something about it."

There is certainly a growing field of research exploring risk, and risk-management, for universities in respect of placements, particularly where they form part of a work-integrated learning curriculum. In this context, Fleming & Hay have recently argued, for example, that just as institutions hosting students have "a responsibility to take reasonably practicable steps to prevent harm", so the university has an overlapping duty to "consult, cooperate and coordinate with the host organisation to ensure effective health and safety

management."[52] In effect, they suggest that this entails that "responsibility for assessing and managing risk" should be a "largely shared" function, albeit that "the boundaries can blur depending on factors such as the length of placement, whether a student is also an employee of the host organisation and who is organising the placement."[53] In the specific context of mini-pupillage placements, it is clear that this is far removed from the current approach of many UK law schools. Standard procedures for keeping a record of which students are undertaking placements are lacking, let alone any mechanisms for reporting on their experiences, recording concerns, or vetting prospectively. Universities increasingly have infrastructure in place, typically through 'Report and Support' systems, that enable disclosure of experiences of harassment, discrimination, or misconduct on campus and in university-related engagements off campus. Indeed, the Office for Students has made it clear that embedded mechanisms for responding to "all forms of harassment and sexual misconduct affecting students," with an approach that ensures "risks relating to these issues are identified and effectively mitigated," should be minimum expectations for registration.[54] This could usher in greater institutional responsibility in terms of reporting infrastructure, risk assessment and information-sharing with firms and chambers, but the exact reach of these expectations is unclear. [55] Complicated questions abound, moreover, regarding the handling of private and sensitive information in this arena,[56] and in any event, it is currently unlikely that students would themselves think to use, or be directed by others to, these systems given the 'arms-length' approach maintained by many law schools.

To the extent that maintaining this current approach appears increasingly untenable, law schools might usefully learn from reflections and initiatives in other jurisdictions. In the US, framed by equality obligations in public education under Title IX, Odio et al have argued, for example, that "preparing our students for internships, externships and fellowship programmes is deeper than making sure they have the requisite skills and knowledge to be successful."[57] Amongst other things, they suggest that it requires higher education institutions to undertake an appropriate degree of advance risk-assessment and management in respect of students' potential exposure to inappropriate behaviour, and to ensure appropriate

---

[52] Jenny Fleming and Kathryn Hay, 'Understanding the Risks in Work-Integrated Learning' (2021) 22(2) *International Journal of Work-Integrated Learning* 167-181, at p. 167.
[53] Fleming and Hay (2021), op. cit. n. 52, at p. 169.
[54] Office for Students, 'Statement of Expectations For Preventing and Addressing Harassment and Sexual Misconduct Affecting Students in Higher Education,' available at – https://www.officeforstudents.org.uk/media/d4ef58c0-db7c-4fc2-9fae-fcb94b38a7f3/ofs-statement-of-expectations-harassment-and-sexual-misconduct.pdf
[55] Office for Students, 'Consultation on a New Approach to Regulating Harassment and Sexual Misconduct in English Higher Education' (2023), available at - https://www.officeforstudents.org.uk/media/7939/harassment-and-sexual-misconduct-consultation-2023-final.pdf.
[56] See also Sharon Cowan, Vanessa E. Munro, Anna Bull, Clarissa J DiSantis and Kelly Prince, 'Data, Disclosure and Duties: Balancing Privacy and Safeguarding in the Context of UK University Sexual Misconduct Complaints' (2024) *Legal Studies*, available at - doi:10.1017/lst.2024.9.
[57] Michael A. Odio, Parry Raube Keller and Dana Drew Shaw, D.D. (2019) 'Protecting Our Students: Title IX, Sexual Harassment and Internships' (2019) 13 (2) *Sports Management Education Journal* 117-125, available at https://journals.humankinetics.com/view/journals/smej/13/2/article-p117.xml, at p. 125.

signposting so that "students understand their right to be free from discrimination in any internship…(e)ven if only going to the worksite once."[58] As part of this, students should also be provided with an awareness of available routes to reporting and redress, which might involve different degrees of formality and anonymity to increase the opportunities for effectively gathering information that can assist prevention and change.

Recent initiatives in the US that have drawn on the work, discussed above, around clerkship placements to highlight the need for greater accountability and transparency from higher education institutions may also be instructive. In that context, Shatzman has argued that, while law schools are "incentivised" to encourage students to apply for such opportunities, and provide considerable resources and practical support around the "nuts and bolts" of applications, the system becomes "a 'black box', 'confusing' and 'opaque'" when difficult questions about workplace mistreatment emerge.[59] While "law schools have historically received a free pass" in this conversation about accountability, Shatzman is clear that this is no longer acceptable.[60] Meanwhile, in Australia, the need to better ensure that students from minority groups who secure legal internships are protected from harassment and discrimination has recently led the University of Adelaide Law School to implement a "safer legal placements" initiative for all its students.[61] To date, those involved report that this has focussed on "empowering those experiencing disadvantage and discrimination through education and support," including by designing and distributing resources that are intended to help students "recognise and respond to inappropriate behaviours in the workplace."[62] In tandem with this, and recognising the difficulties associated with simply placing the burden of challenge and change upon students themselves, those behind the initiative are also currently developing additional "tools and strategies to ensure host firms and supervising solicitors are empowered to support students," which it is hoped can help professionals "facilitate positive cultural change within their own workplaces."[63]

Thus, while none of this relieves the legal profession of their obligations in terms of ensuring workplaces characterised by respect for equality, diversity and inclusion, it does underscore that law schools cannot avoid their own attendant responsibilities to students by acting effectively as 'fixers' at the margins. Determining the most appropriate mechanisms by which to improve the protections and redress afforded to students, and increase oversight and accountability in relation to placements - both amongst the legal profession and legal academy - will clearly not be a simple matter. The currently ill-fitting nature of legislative and regulatory frameworks, endemic resourcing shortages, challenges associated with embedding cultural change, and the semi-autonomous nature of the legal bar all pose further complexity. Nonetheless, echoing conclusions reached in other jurisdictions, it is now increasingly hard in the UK to

[58] Michael A Odio et al (2019), op. cit., n. 57 at p.125.
[59] Shatzman (2023), op. cit, n. 49, at p. 130.
[60] Shatzman (2023), op. cit. n. 49, at p. 145.
[61] Anne Hewitt, Stacey Henderson and Kylie Covark, 'Minimising Risks for South Australia's Legal Interns' (2023) 48(2) *Alternative Law Journal* 143-147.
[62] Hewitt et al (2023), op. cit. n. 61, at p. 145.
[63] Hewitt et al (2023), op. cit. n. 61, at p. 145.

ignore the need for "the legal academic and legal profession to engage in a meaningful conversation about how to protect law students from the negative effects of expectations around legal work experience."[64]

Conclusion

Previous work has consistently indicated that the legal bar in England and Wales faces significant challenges in terms of bullying, harassment and discrimination, which can be amplified by its hierarchical operation and cultural tendency to blur boundaries between work and social interaction. More junior colleagues, and particular those who are female, non-white, disabled or otherwise from marginalised communities in this space, are apt to be particularly exposed. And while there have been improvements in training, policy and complaints processes, there are clearly often still significant barriers to reporting.

The position of student placement-holders is too often a precarious one in this context. The shift towards more formalised schemes for selecting and running mini-pupillages across chambers in England and Wales is welcome, both in terms of increasing opportunities for access and diversity at the bar and ensuring infrastructure that might support greater regulation and transparency around placements. However, there is more to be done by chambers and regulators alike to understand the scale of students' exposure to inappropriate behaviours, empower mini-pupils with an understanding of professional expectations, and ensure the availability of effective reporting and redress mechanisms. In addition, the 'shadowy' position of many university law schools, in encouraging and facilitating students' uptake of legal placements whilst failing to implement processes for safeguarding or feedback may be unsustainable.

It goes without saying that the impact of experiencing workplace bullying, discrimination or harassment, or witnessing it being directed at others, can be significant and damaging. Though, on the one hand, these impacts might be lesser for students who are not under a continuing commitment to that workplace, on the other, they might be particularly acute: students are entering this as a new environment, already in a disempowered position, and 'trying the space' out to discern future career options. Exposure to such inappropriate behaviour may deter them from pursuing a career in the profession or provide an early introduction to regressive workplace norms that they perceive require to be tolerated in order to succeed. This is something law schools concerned about the wellbeing of students and alumni should not tolerate.

[64] Hewitt et al (2022), op. cit. n. 2, at p. 112.