

# Independent review of bullying and harassment at the Bar

## Call for submissions response form

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If you find it easier, you can complete any or all of the questions below and email your completed form to [BHReview@barcouncil.org.uk](mailto:BHReview@barcouncil.org.uk).

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If you would like to submit your answers completely anonymously and confidentially, please use [Talk to Spot](#).

Name (optional)

Eve Robinson

**I WOULD ASK THAT THE FOLLOWING TEXT (IN RED) IS REDACTED PRIOR TO PUBLICATION. I AM PROVIDING THIS INFORMATION TO THE REVIEW FOR CONTEXT.**

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## **1. Reasons for bullying, harassment, and sexual harassment**

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

In my view the persistence of this problem is multi-faceted, but ultimately boils down to a cultural issue.

It is my view that there is not a clear statement of intent across the board, be it the BSB, Chambers, or as Barristers individually, that this behaviour is unacceptable, will not be tolerated and will be dealt with firmly. The consequence of that is in my view the following; firstly, those who experience it do not feel confident or able to report it because they do not consider it'll be taken seriously or dealt with robustly; secondly that those who are perpetrators of the behaviour do not contemplate nor fear the potential that there will be repercussions for them if they act or continue to act in that way.

As a result of this, those who experience this behaviour are left concerned for what reporting will mean for them, and their career. There is a palpable fear that to call out this behaviour will result in their career/reputation being negatively impacted, which isn't something that should be contemplated in the face of behaviour which is objectively wrong.

I accept and appreciate that those who perpetrate this kind of behaviour may well not be deterred by the prospect of firm sanctions for example, as regrettably there are some individuals who are going to behave this way regardless, however, I think establishing a culture amongst the Bar that makes clear that there is no place for bullying, harassment or sexual harassment is extremely important from a more general perspective.

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

I think the fact that primarily those at the Bar are self-employed contributes to this behaviour persisting. We don't have HR departments, there is no mandatory training.

The Bar can also be quite a lonely profession, since COVID and the change in everyone's way of working, you can go long periods of time without seeing others from your Chambers, you can find yourself in unfamiliar courts absent of a support network. I think the knock-on effect of that can be that individuals feel isolated and left not knowing quite where to turn, or who to speak to.

The clear power imbalances that exist within this profession also contribute. This is perhaps most stark for pupils, but is also present generally when considering 'seniors'/'juniors'. This can result in pupils or those more junior feeling 'indebted' to more senior individuals, but also 'at their mercy' insofar as there being a concern that if they were to speak up about inappropriate behaviour or were to reject that more senior individual's behaviour/advances, there will be repercussions for their career progression.

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

Whilst one would hope that it shouldn't take explaining in plain and simple language, unfortunately experience would show that it is in fact necessary. I don't take the view that there is clear guidance on acceptable and unacceptable behaviours and deem the BSB Handbook as largely inaccessible on account of its format and the language used. Again, there is also no mandatory, standardised training meaning that Chambers could be operating on very different bases in respect of this behaviour, not only in terms of their responses but also their understanding/definitions of it.

- d. Are the relevant standards of behaviour relating to bullying, harassment and sexual harassment sufficiently mainstreamed within barristers' professional obligations? Should they, for example, be included within the Core Duties set out in the [BSB Code of Conduct](#)

I think that the Core Duties as currently drafted encapsulate these kinds of behaviours, primarily within CD3 and CD5. However, firming up within the Conduct Rules or Guidance to the Core Duties that those particular duties are inclusive of not bullying, harassing or sexually harassing others may go some way in establishing that clear message that it will not be tolerated.

## **2. Impact of bullying, harassment, and sexual harassment**

- a. What is the impact of bullying, harassment and sexual harassment on those who are subject to such misconduct?

I am someone who has first-hand experience of sexual harassment and of the disciplinary process that stems from reporting it, and it is difficult to do justice to the extent of the impact that this behaviour can have upon people. To this day, I'm not sure I have fully processed the impact that it had upon me, and not only the impact that the behaviour had, but the impact that engaging/experiencing the disciplinary process had too.

I vividly remember thinking that by reporting what had happened to me I was going to potentially ruin everything I had worked so hard to achieve and for a significant period after I did report it, I ended up feeling like I had, mainly owing to the response I had received from those I thought would be there to help me.

It resulted in me contemplating leaving the Bar because until I found support from others (which was by pure chance in reality) I genuinely could not see a way that I would be able to stay where I was nor how I would manage a move out of Chambers on my own in this context.

I felt incredibly alone and it also resulted in me having a significant crisis of confidence in terms of my ability as a Barrister.

I questioned myself insofar as whether I was overreacting in reporting what had happened on account of the response that I received from Chambers and the Disciplinary Tribunal; I knew objectively that the behaviour perpetrated against me was extremely serious but what was happening around me after reporting never seemed to accord with that seriousness. I was then left even more confused when there was a very public response to the published Disciplinary Tribunal report which included members of other professions remarking that if that were them then they'd 'have been struck off', as well as other members of the Bar commenting upon the inadequacies of the response/sanction.

At the end of it all I was left with the feeling of 'if I had known what I know now' about the way in which my complaint was to be handled, both by Chambers and the BSB/BTAS, I would seriously question whether to report it or not, I mean even more so than I already did as a Pupil in her Second Six contemplating tenancy! For me, being left to feel like that was one of the biggest problems arising out of all of this. I know that I undoubtedly did the right thing but, it has taken a significant period of reflection and making every effort to turn a terrible thing into something positive/productive to properly see that. It just shouldn't have been as hard as it was, nor should I have ever been in a position whereby I thought I would be the one to lose out by doing so.

- b. Is there a wider impact upon barristers' staff, clients (professional and law), or the justice system more broadly?

Often the crux of any disciplinary procedure in response to this behaviour is down to the view that the perpetrator of the misconduct has been deemed to have diminished the trust and confidence that the public hold in our profession. In my mind, the sanctions we have seen and the procedures that I experienced go a long way in doing the same. The wider impact is upon the perception that others have of us, as a profession. I watched plenty of people, from all walks of life, react to my case (and specifically the sanction imposed) and the one consistent response was 'if that were me, I'd have been struck off'. That for me begged the question, why as Barristers, do we hold ourselves to any less of a standard than that of our counterparts? If anything, given the work we do, shouldn't we be holding ourselves to a higher standard than most? I think being a Barrister is an extreme honour and privilege, but to subject a fellow Barrister, or any individual for that matter, to not only behaviours of this kind, but also to the experience what then flows from reporting it, is neither. In my mind it has a significant impact upon the reputation of our profession.

Chambers staff are not immune to being targeted by perpetrators of this behaviour and in some instances, there may be an even greater power imbalance present for perpetrators to exploit. This isn't solely a 'Barrister to Barrister' issue by any means.

In terms of clients, there is also a potential difficulty insofar as reconciling perpetrators of this behaviour (specifically sexual harassment) continuing to be placed in positions of trust representing vulnerable individuals. I query how some may feel knowing a person representing them had had serious misconduct findings of this nature made against them. Ultimately as it stands, such information wouldn't be known to them unless they take it upon themselves to research their Barrister and find the Disciplinary Tribunal Sanction Report.

### 3. Reporting mechanisms, resources, and sanctions

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

Again, a key barrier in my mind is the current and persisting culture; the fear that there will be repercussions for the individual reporting the behaviour and that fear outweighing the potential that the complaint would be dealt with properly, with an appropriate sanction.

The power imbalance that exists within our profession also contributes, particularly by exacerbating the feeling and perception described above.

The duty to report under rc66 (as discussed below).

A lack of knowledge about, and transparency in respect of, how any such report would be handled and what the process looks like. This is in respect of both Chambers' own procedures and the BSB's. I think there is a lack of information available as to what the process of reporting a complaint, particularly to the regulator, looks like and what it may entail. In order for individuals to make an informed decision as to whether they could manage what may be expected of them, they need to know that in advance.

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

I think a clear statement of intent across the board insofar as how this behaviour is viewed and will be treated will go a long way in alleviating the concern that individuals may feel about the potential repercussions to them of making a report. I'm not sure if there are any specific mechanisms that could be implemented, unfortunately I think that individuals will only feel that there aren't going to be repercussions for them reporting these behaviours, if they can see that there haven't been repercussions for those who have gone before.

- c. The Bar Standards Board (BSB) rules place a duty on barristers to report to the BSB in circumstances where there are reasonable grounds to believe there has been serious misconduct (with an exception set out in guidance for victims). Is this duty to report known, understood and implemented in practice?

I think the duty is both known and understood, however not implemented. Whilst I understand the rationale behind this duty, I think its greater impact is to deter individuals from reporting behaviours, as opposed to encouraging/ensuring it. Speaking from my own personal experience, and the nature of the misconduct perpetrated against me, a great deal of my control and empowerment was taken away in that moment; I did not have control of what happened to me in that situation, someone else did. There was certainly a real feeling for me that by telling someone, in fact anyone, about what had happened, things would be taken out of my hands and once again I would have no control over something that was happening to me. Ultimately, I feel the processes that then followed simply compounded and exacerbated that feeling. I had my control and empowerment taken away in that moment and continued to have it taken away after I had done what I considered to be the right thing.

I was expected to comply with each and every request made of me without question and sometimes without warning/notice or explanation. I wasn't at any stage asked to give any real detail or account as to the impact that what had happened to me had had, which left me feeling that that didn't really matter. I sat through a Disciplinary Tribunal whereby I was excluded from certain parts which referred to the perpetrator's 'personal circumstances', despite the perpetrator knowing everything I had said and having violated me in one of the most personal ways in the first place. In the end, I felt I was simply a pawn in the disciplinary action game. I think that for an individual to know that if they tell someone, that person is then obliged to report what they have been told, creates far more difficulties than it does solutions. Not only for the reasons outlined above in terms of how I felt, but just the generalised feeling and fear of the unknown. I think in some instances, the duty isn't implemented deliberately, so as to protect individuals who have felt brave enough to come forward from further emotional harm and distress in particular. I also think in some instances that there can be a reluctance for individuals to 'get involved' in something of this nature, particularly where they may have been told about it in a more informal way. There can be a view and feeling that you shouldn't rock the boat, that ultimately it isn't your place to say and least of all in the absence of knowing all the details. It is my view that there is far greater likelihood of individuals coming forward if this duty did not exist. I think individuals would feel far more able to tell people about this behaviour, particularly those more senior to them, with the knowledge that if they do that matters won't be immediately taken out of their hands and escalated. The far better scenario in my mind for those who are told about such behaviour is for them to be enabled to support the person telling them to report the behaviour themselves if they want to, as opposed to having to inform them that regardless of what they want or how they want it to be handled, they're duty bound to tell the BSB.

- d. Is there sufficient support in place both for complainants and persons accused of bullying, harassment, or sexual harassment? Do the existing mechanisms appropriately balance the need for confidentiality and transparency?

In respect of sufficient support for complainants, in short, the answer is no.

Throughout my experience of the BSB disciplinary process, I cannot say I felt supported. Primarily, that stems from the fact that the caseworker you are assigned is exactly that, a caseworker. Their role is to gather the evidence, to update you ad hoc as to what stage the proceedings are at and to answer any questions you may have. They are not there to offer any emotional support nor are they there to advocate on your behalf; again, it comes back to my earlier comment as to feeling like a 'pawn in the game' as a complainant. Whilst I fully recognise and acknowledge that the disciplinary action is not brought on an individuals' or complainants' behalf, I think there is a distinct lack of awareness as to the sheer toll that complainants experience as a result of having to be a part of it.

It is my view that complainants should have access to someone independent of the disciplinary process to act as a conduit in effect, such as an 'advocate'. Something I recall very vividly is the fact that I would receive emails from the BSB during working hours, but also without any awareness of when the next email would be landing. That created significant anxiety both in terms of the not knowing what would be next, but also seeing an email sitting there in the inbox waiting to be read. If there had been someone whose role it



was to have set meetings with me, on a clear and known timetable, to relay that information to me in a space carved out in my diary specifically, I think that would have made a significant difference to my ability to manage this process alongside my working life. That person also being able to relay my views, concerns and questions back to the BSB would also likely have made me feel more able to express them in the first place, particularly considering how junior I was at the time. I think this would have gone some way in reducing the feelings of being out of control and disempowered by the procedure.

I'm not sure that there is an effective balance between confidentiality and transparency, with there seeming to be a far greater priority being given to confidentiality. Whilst I can understand the importance of confidentiality in such circumstances whereby allegations of misconduct are yet to be determined, I'm unclear why it becomes a priority to the detriment of transparency where individuals have admitted misconduct or have findings of misconduct against them. I think it also comes at a cost in that it also demonstrates to me a lack of recognition or acknowledgment of how difficult that is upon complainants to manage.

- e. Should there be interim measures which permit a person accused of bullying, harassment, or sexual harassment to be subject to a precautionary exclusion from Chambers, their employer, or from practice during the adjudication of a complaint?

Yes, in my view there should be, where the complaint is admitted.

At the conclusion of my Chambers' internal investigation (which found serious misconduct/sexual harassment on account of the perpetrator admitting it), but whilst the BSB investigation was ongoing, a decision was taken that normal service would resume and I would no longer be clerked apart from that individual. The result of that was that I found myself on a case with them, without any forewarning. I cannot express how impossible that situation was, not only from a personal perspective but from a professional and ethical one too. Had there been an ongoing interim measure of exclusion from Chamber/interim suspension, or even a direction that I was to be clerked apart from them, that would not have happened.

As I understand it, the BSB do have the ability to impose interim suspensions, albeit again despite admitted behaviour in my case, did not seek to utilise it. I'm unclear if this is ever actually used as there appears to be a lack of information available in this regard. Again, had they done, that would have made a huge difference and certainly improved my view of the fact the complaint was being taken seriously and that my career was not in jeopardy.

I can appreciate and understand that where there is not admitted misconduct, nor findings, imposing such measures creates significant difficulty however, I think ensuring that complainants are safeguarded during the course of investigations and disciplinary processes must be prioritised and can be achieved in another, less significant way than exclusion. For example, if both the perpetrator and the complainant are within the same Chambers there being a clear expectation/direction that they are clerked apart for not only Chambers' own internal process but any BSB process that then follows.

- f. Are investigations into complaints (by the BSB, Chambers or any other relevant body) concerning bullying, harassment or sexual harassment sufficiently independent, prompt, robust, and fair?

I think I perhaps address this in my answers above, however for completeness, for me, it is very difficult to answer 'yes' on account of my own experience.

Again, speaking from the perspective of my own experience, the process was in no way 'prompt'. I first reported the behaviour in July 2019, Chambers' internal investigation was completed by November 2019 and the matter was reported to the BSB around that time. The BSB investigation and Disciplinary Tribunal did not conclude until January 2021 and the report followed a few weeks thereafter. It was difficult to comprehend what took so long in circumstances where the behaviour had been accepted by the perpetrator and I dread to think how long it would have taken were that not the case and a hearing with evidence was required. It is my view that there needs to be a significant review and overhaul of the BSB timetable, in my mind there is no need for these processes to take as long as they do. The impact that the length of proceedings has, also cannot be overlooked.

In terms of robustness and fairness, again I think I address this in answers to earlier questions, but ultimately even despite having gone through the process, I have very little knowledge or awareness of how it was handled and run. The extent of my involvement was to respond to any requests the BSB made as and when they made them and to provide a witness statement. I was given updates when the process moved to another stage but, with very little detail. I did not consider it fair that at the Disciplinary Hearing itself I did not have sight of the BSB's opening statement (which was ultimately relied upon as written as the factual matrix of the matter) and to have also been excluded from elements of the hearing on the basis that it dealt with information personal to the perpetrator. I was also never asked to provide any form of impact statement, which seemed an oversight when considering that part of the assessment any Tribunal has to undertake when considering the appropriate sanction is what the impact upon the complainant was.

- g. Following an upheld complaint of bullying, harassment or sexual harassment, are the sanctions imposed appropriate and fair? Is enforcement action sufficiently robust to act as a deterrent?

I think that there has been an improvement to the Sanctions Guidance, further to the consultation that was undertaken a year or two ago. I certainly did not consider that prior to this the sanctions were appropriate and fair. Whether that is borne out in practice in terms of their application is more difficult to comment upon.

The information surrounding imposed sanctions is difficult to access and requires a review of each and every report individually. I think it would assist for the sanctions that have been imposed for this type of behaviour, each year, to be collated so that they are easily accessible. This would likely assist anyone considering a report, as they would be able to see in a digestible format the way in which the Disciplinary Tribunal have handled such complaints previously and it is hoped, see they have been handled adequately.

#### **4. Potential reforms to tackle bullying, harassment, and sexual harassment**

- a. Are there any preventative steps which can be taken to tackle bullying, harassment, and sexual harassment? In particular, what could be done in the court room, in Chambers, and at the Bar more widely, to assist in preventing such misconduct?

A CPD requirement in terms of engaging in bullying/harassment training. I think there should also be better discussions with pupils/the junior Bar as part of their training as to what behaviours constitute bullying and harassment so that they are better able to identify it and also receive the message very early on that it's not something that should or would be tolerated.

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

I have addressed this in my answers above.

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

Changing the culture starts with us as all as individuals, that includes us recognising the inappropriate behaviours for what they are and not standing by, leaving them unchallenged. Having an open dialogue about these kinds of behaviours, and a clear statement insofar as them not being tolerated will also stop the feeling of these behaviours, and reporting them, being a 'taboo' or as if they are something that we should just stay silent on to avoid rocking the boat.

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

#### **5. Is there anything else you would like to share with the review?**

Click or tap here to enter text.

Please answer as many of the questions as you are able and submit your answers via email to [BHReview@barcouncil.org.uk](mailto:BHReview@barcouncil.org.uk). Please note your responses will not be seen by the Bar Council unless you have opted to have them published.

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