

Dear Madam/Sir,

Thank you for the circular email asking for submissions to Baroness Harman KC's review.

I wish to make a contribution **but strictly on the basis that my name (or chambers) is not published**. I do not mind my status as a KC being referred to.

At the outset, as a senior member of the Bar and in line with my duties to promote the profession, I believe it is my duty to contribute to this review. I should also make it clear that, in relative terms, my status and practice specialisms would lead to a perception that I am at the top end of the profession. Nevertheless, this review is equally as relevant to those at my level as it is to others. I am grateful to Baroness Harman KC and her team in looking into these matters.

I respond to certain, but deliberately not all, review questions below. Where I do not respond to questions, that is because I do not feel I am in a sufficiently well-informed position to respond:

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?

I can only respond on a first-hand basis to bullying. I believe the reasons to be 3 fold:

- (i) the adversarial nature of the profession means that interactions can often be more direct and aggressive than normal, day-to-day interactions generally. Those professional interactions, in intense situations, can often cross the proverbial line. Moreover, clients and solicitors often ask for 'aggressive' or 'robust' advocates, which is really another way of saying a bully; in other words, bullies are cherished by some for tactical reasons;*
- (ii) the small world and long term nature of a career at the Bar means that barristers often hesitate to complain or call out bad behaviour. We are worried about it being 'career suicide', as frankly privacy and confidentiality is rarely observed at the Bar, which is rife with gossip;*
- (iii) the most senior members of the Bar or senior judicial, whilst the finest minds, are often the worst culprits. Some of them set terrible examples in public and in private and, even when comments from advocates are too personalised, simply do not intervene.*

On sexual harassment, I cannot speak to incidents over the last 15 years – but I saw as a pupil or bar school student in the early 2000s senior members of the Bar or judiciary pay inappropriate attention to female contemporaries, safe in the knowledge that their behaviour would be over-looked and would not be reported. I know of one female friend who was propositioned by a more senior male colleague pupil-master and, when she turned him down, he voted against her being taken on as a tenant – which ended her fledgling career. She then left the Bar. Thankfully, I have not seen such behaviour since.

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

I touch on this in my response to the question above – the adversarial nature of the profession and the senior/junior hierarchy in particular.

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

There is no doubt that the Bar Council, the Inns of Court and leading chambers have robust policies and training in place. For those involved with such organisations (such as myself), the relevant standards could not be clearer. I cannot speak about the rest. Also, being blunt, members of the Bar are relatively very well educated; it is unconvincing for any such person to say they don't know or recognise behaviour which is inappropriate. The bigger question is why they often do nothing about it.

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

I am loath to try to particularise every possible form of inappropriate conduct; such conduct is potentially limitless. Such an approach may be superficially attractive, but in practice adds nothing to duties which are already covered. Barrister's duties clearly include integrity and not bringing the profession into disrepute. It is fanciful for any barrister to argue that the standards referred to in this question are not caught by those general duties.

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?

Speaking from experience of facing bullying opponents or judges on a sadly regular basis, it makes me question why I put myself through it. It is also deeply internalised, since our duties are to our clients – not to complain about ourselves. That can lead to sleeplessness, anxiety, depression and a general lack of trust.

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

Of course. Experiencing or witnessing such conduct undermines the trust and confidence in the profession and the law more broadly. Users are less likely to engage in it as a result, let alone work in it.

3. Reporting mechanisms, resources and sanctions

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

I touch on this above, it is perceived as 'career suicide'. By way of example, chambers' complaints will go to a fellow or a group of fellow members of chambers. Such complaints often then enter the public domain. The alleged aggressor will often then start a counter-narrative. I have experienced both; former colleagues who have complained have all, without exception, then either left chambers or faced indirect reprisals, including in one instance an expulsion motion. I have also had alleged aggressors subtly indicate to me that their complainants were not stable, rational or to be trusted. No wonder reporting is so low.

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

I believe the mechanisms are already in place – confidential reporting, external reporting and sanctions in most chambers' constitutions for misconduct/breach of privacy. What needs to happen is those policies are followed to the letter.

- c. The 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 can only speak personally; I know these duties as ethics/integrity and ED&I are competencies as part of the KC application process. I fear though that is rare for a barrister to report such conduct, even if obvious.

Kind regards,