



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

26 May 2025

Roddy Dunlop KC

**Response to the Independent Review into Bullying, Harassment and Sexual Harassment at the Bar of England and Wales**

Dear Rt Hon Baroness Harriet Harman KC

I write in response to your correspondence dated 12<sup>th</sup> May 2025, in which you invited contributions to the Independent Review into Bullying, Harassment and Sexual Harassment at the Bar of England and Wales. I would like to commend the Bar Council for commissioning this important initiative and express our appreciation for the opportunity to contribute insights from our own jurisdiction.

Please find below our considered responses to the matters raised in your letter:

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**1. Prevalence of Bullying and Harassment:** *To what extent, if any, is bullying and harassment a problem in the legal profession in your jurisdiction?*

In 2022, the Faculty commissioned a review of its internal culture as experienced by both its members and external stakeholders. Led by Dr Suzanne Doyle-Morris, the review sought to address three key issues:

- Understanding the breadth of diversity and inclusion amongst staff and members.
- Adverse publicity related to disciplinary matters, leading to negative perceptions; and
- Wellbeing and Mental Health issues.

Informed by a combination of interviews, surveys and data analysis collected from both an internal and external perspective, the report provided seven key areas of focus, one of which included Diversity and Discrimination with an element of improving the reporting process for bullying and harassment. Whilst not solely focused on bullying and harassment, the outcome of the review has driven the creation of four working groups focussed on Wellbeing, Governance, Outreach and Equality & Diversity. Throughout 2024 and into 2025, these working groups have tested and challenged the analysis of the report and subsequently created action plans to implement and

embed key changes across Faculty. Whilst these action plans are still underway, there has been considerable positive engagement and impact seen from both a staff and member perspective.

While it is not possible to provide a definitive quantification of the prevalence of bullying and harassment at the Scottish Bar, the *Law Society of Scotland's Profiles of the Profession 2023* study offers some insight, indicating that 17% of respondents reported personally experiencing, and 21% reported witnessing, such behaviour in the workplace. However, based on the volume of confidential disclosures made to our Wellbeing and Inclusion Officer (a new role created in 2024 as part of implementing the culture report recommendations), it could be surmised that these figures understate the true extent of the issue. A pervasive fear of victimisation continues to act as a major deterrent to reporting, even through informal or anonymous channels. This concern is further substantiated by our internal survey findings, which confirm that both the experience and observation of harassment, bullying, and discrimination remain persistent and pressing challenges within the Faculty of Advocates. A key part of the Wellbeing and Inclusion Officer's role is to support the necessary improvements needed in the reporting process.

2. **Code of Conduct Provisions:** *Please could you share with us a copy of the relevant provisions in your Code of Conduct which deal with bullying and harassment? In your view, are the standards of behaviour required of barristers as set out in the Code clear and sufficiently robust?*

The [Faculty of Advocates' Guide to Professional Conduct](#) outlines the principles and rules governing the professional behaviour of advocates in Scotland. Included below is a summary of the key details relevant to bullying and harassment:

- The *Guide to Professional Conduct* is issued under the authority of the Court of Session and sets out the ethical and professional standards expected of all practising advocates in Scotland
- It is supplemented by Dean's Rulings, which may address specific matters of professional practice, subject to approval by the Lord President of the Court of Session.

While the Guide does not explicitly use the terms "bullying" or "harassment" in every section, it establishes a framework of professional integrity, courtesy, and respect, which underpins the Faculty's zero-tolerance approach to such behaviours. Key expectations include:

- Advocates must conduct themselves with honesty, integrity, and independence.
- They must treat colleagues, clients, the judiciary, and others with courtesy and respect at all times.
- Any conduct that undermines the dignity of the profession or the administration of justice may be subject to disciplinary action.

The Guide is complemented by the Faculty's Harassment and Bullying Policy, which explicitly states:

*"All complaints of harassment and/or bullying will be treated seriously, promptly and sympathetically... Retaliation against a person who brings a complaint... is itself a serious disciplinary offence."*

This policy reinforces the standards set out in the Guide and provides a clear procedural framework for addressing complaints.

**3. Training on Bullying and Harassment:** *Do lawyers in your jurisdiction undertake any training on bullying and harassment? If so:*

*a. Is this training voluntary or mandatory?*

*b. In your view, is this training effective?*

*c. Please could you share copies of any relevant training materials with us?*

a. The Faculty provides a series of voluntary Continuing Professional Development (CPD) sessions throughout the year, which address bullying, harassment, available support services, and both informal and formal reporting pathways. While attendance is not mandatory for members, it is strongly encouraged by the Dean.

Staff, by contrast, are required to complete mandatory training on these matters. A current initiative is also underway to provide targeted instruction to Equality and Diversity Officers and Practice Managers on the use of *Talk to Spot*—a secure, confidential online tool designed to facilitate the reporting and documentation of inappropriate behaviour.

b. *Talk to Spot* enables members and staff to record incidents of bullying, harassment, or discrimination in a private and secure environment. It can be used by individuals who have experienced or witnessed such behaviour and allows for the creation of a contemporaneous record without the immediate need to escalate the matter. The tool supports anonymous disclosures and helps users consider next steps, thereby lowering the threshold for engagement and encouraging early intervention. Since the introduction of this tool, there has been a noticeable increase in informal disclosures and engagement with the Wellbeing and Inclusion Officer, suggesting improved awareness and cultural responsiveness.

c. Staff training is delivered online through two external educational providers. The CPD materials used for members and staff are licence-free and available for sharing upon request.

**4. Regulation of Law Firms:** *Are law firms regulated entities in your jurisdiction?*

Law firms in our jurisdiction are regulated entities, subject to oversight by the Law Society of Scotland.

**5. Obligations of Law Firms:** *What obligations, if any, do law firms have to prevent and/or respond to incidents of bullying and harassment?*

In Scotland, law firms have both legal and professional obligations to prevent and respond to incidents of bullying and harassment. These responsibilities are outlined by the Law Society of Scotland and reinforced by recent legislative developments. These include:

- Implementing clear anti-harassment policies with defined procedures for reporting and investigation.
- Providing training to staff and leadership on recognising and addressing inappropriate behaviour.
- Fostering a respectful workplace culture, supported by leadership.
- From October 2024, under the *Worker Protection Act*, firms will have a legal duty to take proactive steps to prevent sexual harassment.

**6. Reporting Mechanisms:** *What informal and formal reporting mechanisms are available to lawyers who have experienced or witnessed bullying or harassment either by (i) other lawyers; (ii) judges; (iii) clients; or (iv) clerks or other employees? How effective are these mechanisms?*

Individuals who experience or witness bullying or harassment are encouraged to raise concerns through informal channels for both staff and members. These include:

- Spot
- Office Bearers
- Stable Directors
- Practice Managers
- Equality & Diversity Officers
- Wellbeing & Inclusion Officer
- Senior Leadership Team
- Line Managers

These informal routes are available for concerns involving other lawyers, judges, clients, clerks, or employees.

Where informal resolution is not appropriate or effective, formal reporting options are available depending on the nature and source of the behaviour:

- Other Lawyers: Complaints should be submitted to the Scottish Legal Complaints Commission (SLCC).
- Clerks or Other Employees: These matters should be reported to HR.
- Judges or Sheriffs: Complaints should be directed to the Judicial Office for Scotland and must be submitted within three months of the incident.

Although these mechanisms are in place and can be effective, they are often underutilised or not widely known. Increasing awareness and accessibility of these routes is essential to ensuring a safe and respectful working environment.

**7. Barriers to Reporting:** *Have you identified any barriers to reporting incidents or bullying or harassment? If so:*

*a. What are these barriers?*

*b. What efforts are being made to overcome these barriers and how effective have these efforts been?*

Barriers which have been identified have included fear of victimisation and professional reputational damage

The use of confidential disclosure and advice via anonymous reporting tools or informal routes can be very effective in determining what outcome is desired by the victim and provide realistic expectations about timelines around complaint resolution. Because anonymous reporting is so seldom, it is unclear as to whether the barriers cited above are perceived as less of an issue than previously.

**8. Threshold for Regulatory Action:** *What is the threshold for triggering regulatory action in cases of bullying or harassment?*

The Faculty handles bullying and harassment under its regulatory framework as mentioned in the response to question two. While there is no single, explicitly defined "threshold" for triggering regulatory action, the Faculty's Harassment and Bullying Policy and Guide to Professional Conduct provide the basis for assessing complaints and determining whether disciplinary procedures should be initiated.

**9. Duty to Report Misconduct:** *Are lawyers under a duty to report certain misconduct to the regulator? If so:*

*a. When is this duty triggered?*

*b. Is this an effective mechanism?*

Yes, advocates in Scotland have a duty to report certain types of misconduct, particularly where it involves breaches of professional standards or serious ethical concerns. This duty is outlined in the Guide to the Professional Conduct (as previously mentioned) and the Faculty of Advocates' Disciplinary Rules.

The duty to report is generally triggered in the following circumstances:

- **Knowledge of Serious Misconduct:** If an advocate becomes aware of conduct by another advocate that may amount to serious professional misconduct, they are expected to report it to the Faculty.
- **Obligation to Uphold Integrity:** Advocates are under a broader duty to uphold the integrity of the profession. This includes reporting behaviour that undermines public confidence in the legal system or breaches the Faculty's standards.
- **Court-Related Misconduct:** If misconduct occurs in the context of court proceedings, advocates may also have a duty to inform the court or relevant judicial authority.

The effectiveness of this duty as a regulatory mechanism depends on factors such as the awareness and willingness of members obligations, the transparency of the complaints process.

In practice, while the mechanism exists and can be effective, it may be underutilised due to cultural or procedural barriers—like the underuse of informal and formal reporting routes for bullying and harassment.

Faculty also has a Whistleblowing Policy that states:

*"It is important that any fraud, misconduct or wrongdoing by colleagues, or individuals connected to our organisation, is reported and dealt with properly. We encourage all Advocates to raise any concerns they have about the conduct of others or the way in which the organisation is run."* Beyond this, I am unaware of any specific legislation to report spurious behaviour and am not privy to any whistleblowing disclosures to date.

**10. Regulatory Effectiveness:** *In your view, is the regulator effective in handling cases concerning bullying and harassment?*

The Faculty has a zero-tolerance approach to bullying and harassment. Whilst Faculty is the regulator for conduct of all Scottish advocates with established rules and procedures in place, we are working with the SLCC and the Lord Presidents Office to make improvements in transparency and accessibility to the current disciplinary processes.

A core part of this is the role of the Dean of Faculty, in two separate but linked respects.

Firstly, if the Dean is made aware of judicial bullying in the course of a case, there is an unwritten but universally accepted convention which allows him to intervene. The Dean may attend the court in question and observe proceedings. If unacceptable behaviour from the bench occurs, he may intervene, object, and ask to address the judge, in open court or in chambers. The present Dean (and on one occasion the present Vice Dean, acting on the Dean's instructions due to the Dean being unavailable) has attended courts for this purpose. On every such occasion, the mere presence of the Dean (or Vice Dean) – which is notified to the Clerk of Court on attendance – has seen an end to judicial misbehaviour.

Secondly, if the Dean is made aware of judicial bullying after the conclusion of a case, he is able to speak to the appropriate "line manager" of the judge in question – namely the Lord President for judges of the High Court or Court of Session, or the Sheriff Principal for Sheriffs or Summary Sheriffs. Again, the present Dean has experience of this with both the Lord President and Sheriffs Principal. On every occasion where it has arisen, it has had a positive result: usually in the relevant judicial office holder explaining that they had not appreciated that their behaviour had caused concern, and that this would be something they would be careful to avoid in the future.

**11. Support in Sensitive Cases:** *In particularly sensitive cases concerning sexual misconduct, are there any bespoke mechanisms in place to support complainants?*

The Faculty has some mechanisms in place to support both members and staff in sensitive cases, including those involving sexual misconduct, though these are not bespoke in the sense of being tailored exclusively to such cases.

The Harassment and Bullying Policy previously mentioned covers sexual harassment and applies to all members and staff. It outlines informal and formal routes for raising concerns. There is also a Wellbeing Strategy where Faculty has invested in a comprehensive wellbeing strategy that includes:

- Mental Health First Aiders: Trained individuals available to provide initial support and signposting.
- LawCare: A mental wellbeing charity offering confidential support to legal professionals, including advocates, staff, and their immediate families.
- Employee Assistance Programme (EAP): Offers 24/7 access to telephone counselling and structured support services.

Rape Crisis Scotland and Victims Support through Scottish Police would both be accessible by anyone reporting sexual misconduct. Internal to Faculty we also offer counselling, psychotherapy, and free access to private psychological services for our members.

**12. Judicial Bullying:** *Is there a problem with judicial bullying in your jurisdiction? If so:*

- a. How has this problem been identified?*
- b. What mechanisms are in place for lawyers to report judicial misconduct?*
- c. To what extent are these mechanisms used?*
- d. In your view, are these mechanisms effective?*

*e. What sanctions are available in response to a finding of judicial bullying and are these sanctions sufficiently robust?*

There are roundtable discussions with stakeholders from the Scottish Legal System that focus on judicial bullying. In addition, the Judicial Office recognises that a complaints process is necessary and has shared anonymised examples of historical upheld complaints.

Formal complaints are to be submitted to the Judicial Office of Scotland within 3 months of the occurrence. Informally, complaints against Sheriffs can be submitted to the Sheriff Principal for each district for review.

At the most recent Law Society of Scotland roundtable, the option for informal reporting to the Sheriff Principal was shared and was met with surprise by most attendees that this was an option.

Formal statistics for complaints submitted to the Judicial Office can be requested. The sanctions against misconduct are outlined by the Judicial Office on their website.

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We trust that the information provided will be of assistance to your Review. Should you require any further clarification or supporting documentation, we would be pleased to assist.

Yours faithfully,

Sincerely,

A handwritten signature in grey ink, appearing to be 'Roddy Dunlop', with a large loop at the start and a trailing flourish.

**Roddy Dunlop KC**

**Dean of Faculty of Advocates**