

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

The Rt. Hon. Lady Justice Whipple
HMCTS
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25th September 2024

Dear Philippa,

Thank you for taking the time to meet with me to discuss the Independent Review of Bullying, Harassment and Sexual Harassment at the Bar. I am writing to follow up on three issues that we touched upon during our discussions.

At the outset I would emphasise that I am acutely conscious of the importance of the constitutional principle of judicial independence, and I am sure that the Bar Council were equally conscious of this in setting up the Review.

Independence and scope of the Review

It may be useful for me to clarify the scope of the Review and my role and responsibilities:

- This Review has been commissioned by the Bar Council and is framed by the Terms of Reference dated 31 May 2024 which were drafted by the Bar Council;
- As Chair of the Review, I am required to conduct the Review by reference to those Terms of Reference; the context for the Bar Council's decision to commence the Review includes evidence that it has gathered of "*Patronising, belittling, overbearing and demeaning behaviour, including by judges*";
- *Inter alia*, it is stated in the Terms of Reference that:
 - "*The purpose of the Review is to examine the whole ecosystem at the Bar: [including, inter alia] interactions to and from [sic] the judiciary*";
 - "*The Review is not to comment on individual cases but to propose reforms or changes to the whole ecosystem to improve the position going forward*" (original emphasis);
 - "*The Report will identify: The reasons for the unacceptable levels of bullying, harassment and sexual harassment at the Bar [...]; Possible solutions [...]; Preventative steps [...]; and Steps to bring about cultural change [...]*"; and
 - My report will initially be sent to the Bar Council and Review Reference Group which will then review whether it "*discharges the Terms of Reference and stated purpose of the Review*".

Comparative analysis

As we discussed, the Terms of Reference for the Review require an examination of how bullying, harassment and sexual harassment has been dealt with by other comparable sectors. I am grateful to you, as Lead Judge for Diversity and Inclusion, Leadership Development and

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Wellbeing, for agreeing to provide a written submission from the judiciary. I would be particularly keen to receive views on the following:

1. To what extent is bullying, harassment, and sexual harassment by judges towards advocates a problem within the judiciary? Where misconduct of this nature does occur, in your view, what are the underlying causes
2. What steps has the judiciary taken to tackle such bullying, harassment and sexual harassment? In particular, how effective are the following mechanisms:
 - a. informal routes for making complaints;
 - b. formal routes for making complaints (including the judicial grievance and whistleblowing procedures and reports to the JCIO);
 - c. mandatory training for salaried judges; and
 - d. the judicial helpline
3. Are the sanctions available for bullying, harassment and sexual harassment by judges both sufficiently fair and sufficiently robust?
4. Are there lessons which have been learned by the judiciary that may assist the Bar in tackling this type of misconduct?
5. What scope is there for the judiciary and the Bar to collaborate in tackling this type of misconduct and, if so, how?

Submissions from individual judges

My understanding, based on our discussion, is that you would not welcome me speaking with individual judges. I feel it is important to conduct this Review in a way which is as open, inclusive, and holistic as possible. There may be individual members of the judiciary who have practised, or continue to practise, at the Bar who have either experienced or witnessed such behaviours and who may have valuable contributions to make to this Review. I hope that any such individuals would feel able to share their experiences and observations with me. I would, therefore, be grateful if you could allow, and perhaps even encourage, individual judges to engage with me by responding to our Call for Submissions. I have made the same request to the Lady Chief Justice as Head of the Judiciary.

I attach a copy of a letter which I am sending to the CEO of the JCIO.

Thank you again for your engagement with me so far. I look forward to receiving your written submissions.

Best wishes,

Harriet