

# **Bullying and Harassment Review commissioned by the Bar Council**

## **Terms of Reference**

Finalised on 31 May 2024

### **Context**

The Bar Council believes that bullying, harassment, including sexual harassment, is a problem at the Bar (see Appendices 1 & 2).

Key themes emerging from 'Talk to Spot,' which is an artificial intelligence tool used by the Bar Council to allow barristers to report their experiences, include:

- Sexual harassment and serious abuse
- Patronising, belittling, overbearing and demeaning behaviour, including by judges.
- Sexist, racist and ableist behaviours
- Online abuse
- Failure to make reasonable adjustments to meet the needs of disabled barristers and difficulties faced by those with caring responsibilities.

Data gathered by the Bar Council suggests that these problems are increasing rather than decreasing.

The Bar Council is concerned that the current regulatory framework relies on vulnerable individuals to bring complaints. It is felt that a more effective system/culture is needed so that issues can be safely and efficiently identified, raised, investigated, resolved and effective, fair and proportionate action taken against the perpetrators.

The Bar Council will appoint the Review Chair who is to conduct an independent review of bullying, harassment, including sexual harassment, and to make recommendations to bring about such change (**the Review**).

### **Independent Chair**

The Chair is Rt Hon Ms. Harriet Harman KC.

The Chair may appoint an assistant to provide administrative support in relation to the Review.

### **Review Reference Group**

The Bar Council proposes to appoint a group of experts on whom the Review Chair may call for advice and to test findings and recommendations. Membership will be agreed with the Review Chair.

The terms of reference for the Review Reference Group will be:

Membership [tbc]

Appointment Process. Members of the Review Reference Group are appointed by the Bar Council (based on their expertise in B&H and understanding of the Bar)

Time period. The Group will be convened of the period of the Review for the period of the Review.

Purpose: To provide advice to both BC and the Review.

Limit of authority: The RRG will be advisory only.

### **Review Purpose**

The purpose of the Review is to make recommendations for action that will reduce the levels of bullying, harassment and sexual harassment at the Bar.

Bullying means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate, or injure the recipient ([ACAS](#)).

Harassment is as defined in s 26 of the Equality Act 2010 as being unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Harassment will be within the Equality Act 2010 if it relates to any of the following protected characteristics: age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

Sexual harassment is as defined in s 26 of the Equality Act 2010 as being unwanted conduct of a sexual nature which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It also includes situations in which an individual is treated less favourably because they have rejected sexual conduct or submitted to it.

The purpose of the Review is to examine the whole ecosystem at the Bar: informal/formal work experience, mini-pupillages, pupillage, tenancy, the culture within chambers, interactions with opposing counsel, interactions to and from the judiciary, interactions with staff/clerks and interactions with solicitors, available Bar Council support, the BSB's rules/guidance/policies.

In short, the Review will examine bullying, harassment and sexual harassment, both suffered and perpetrated by members of the Bar, in the context of the interactions between barristers (inside and outside chambers) and all professionals including aspiring barristers they come into contact within their working lives.

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.

The Review should examine how bullying, harassment and sexual harassment affecting and perpetrated by the Bar has been addressed up until 31 May 2024, and how other sectors have successfully addressed these problems.

## **Output**

The Review will identify:

- The reasons for the unacceptable levels of bullying, harassment and sexual harassment at the Bar
- Barriers to improvement
- The appropriateness of the current sanctions regime
- Possible solutions, including whether it is realistic to expect bullying/harassment/sexual harassment to be addressed via a system which is premised on formal complaints being advanced by victims or observers.
- Preventative steps that can be taken to stop bullying, harassment and sexual harassment happening in the first place.
- Steps to bring about cultural change.
- The current support available to vulnerable complainants and witnesses.

The output of the Review should be a set of recommendations which the Bar Council can then consider and seek to implement or influence others to implement. The Review can refer to current examples of good practice in other sectors if and to the extent relevant.

The Review Chair may consider such other matters as they deem materially relevant and necessary to discharge the stated purpose of the Review. However, if the Review Chair considers that matters have arisen such that they may fall outside the defined scope of this Review, then these should be raised with the Bar Council and Review Reference Group before work is undertaken.

### Process and timelines

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|-----------------------|--|-----------------------------|
| <p><b>Stage 1</b></p> | <p>Review Chair calls for written evidence from bodies at Appendix 3.</p> <p>Review Chair calls for written evidence from bodies at Appendix 4 at their discretion.</p> <p>These calls for evidence should remind the recipients of the existing regime and the current obligations under it. The Review Chair may call upon members of the Reference Group for assistance.</p> <p>Review Chair makes an anonymous survey available which focuses on the complaints process and any measures used by consultees to prevent or address bullying and harassment prior to [1 May 2024].</p> <p>It must be made clear that Stage 1 is a not a mechanism for making complaints (signposting should be provided to re-direct any such complaints) and there will need to be a process – led by the Review Chair - of reviewing answers so that no personal information/names, including alleged perpetrators are identified.</p> | <p>June – end Sept 2024</p> |
| <p><b>Stage 2</b></p> | <p>Evidence from Stage 1 received.</p>   | <p>Sept - Nov 2024</p>      |

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|----------------|--|--------------------------|
| <b>Stage 3</b> | Review Chairs reviews the evidence received.<br><br>Review Chair will determine whether additional evidence is required and if so, call for that evidence. The Review Chair may find it useful to discuss with the bodies identified at Appendix 4 how their processes are working and whether potential changes to the status quo would or would not be constructive. | Dec 24 - Feb 2025        |
| <b>Stage 4</b> | Any new evidence received.   | March – Early April 2025 |

The Review Chair will advise the Bar Council and Review Reference Group after each stage above is completed.

### **Findings**

By the end of May 2025, the Review Chair will produce a report. It will not refer to specific chambers, law firms or individuals whether they be alleged perpetrators or victims of bullying, harassment or sexual harassment.

The report will initially be sent to the Bar Council and Review Reference Group which will review whether it discharges the Terms of Reference and stated purpose of the Review.

The Review Chair will not provide a copy of the report (or any drafts), or any material seen or gathered during the Review to any other person unless required to do so in accordance with the law or any regulatory obligation. If the Review Chair concludes that they are required to disclose the report or any material, they must consult with the Bar Council before taking any action.

### **Access to advice on data protection matters**

The Review Chair will be able to call upon the Bar Council’s internal data protection experts to advise them in relation to any relevant matter on which assistance is required.

### **Publishing a report**

The Bar Council will publish the full report of the Review save for any redactions required by applicable law or policy, including employment law, confidentiality, data protection, and Bar Council’s policies. The Bar Council will consult with Review Reference Group and the Review Chair in respect of its approach to necessary redactions.

The Bar Council may, at its discretion, also publish summaries of the report so long as

the purpose is to provide an accessible and / or digestible version of the report.

### **Regulatory obligations**

In so far as the Chair or assistant are subject to BSB regulatory obligations, they are exempt from any obligation to report misconduct derived from information gathered during the Review.

### **Relevant Bar Council policies and guidance**

All policies and guidance of the Bar Council will be made available to the Chair who will determine which are relevant to the Review.

### **Relevant BSB rules, policies and guidance**

All rules, policies and guidance of the BSB will be made available to the Chair who will determine which are relevant to the Review.

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| Appendix 1 | <a href="#">Barristers' Working Lives and Spot data</a> |
| Appendix 2 | <a href="#">LPMA/IBC report</a>                         |
| Appendix 3 | List of bodies that must be asked to provide evidence.  |
| Appendix 4 | List of bodies that may be asked to provide evidence.   |

## Appendix 1

Bar Council Report: [Bullying, harassment and discrimination at the Bar 2023](#)

## Appendix 2

[IBC/LPMA Culture Report](#)



## Appendix 3

- The Bar Council
- The BSB
- Judiciary (Current and Former Chair of the EDI Committee)
- CEO of Judicial Complaints Investigations Office
- The Law Society
- All Heads of Chambers in the UK
- Equality Diversity Officers within Chambers in the UK
- Inns of Court
- [BPP](#)
- [Inns of Court College of Advocacy](#)
- [The University of Law](#)
- [City, University of Law](#)
- [Institute of Barristers' Clerks](#)
- [Legal Practice Managers Association](#)
- [International Bar Association](#)
  
- The Circuits ([South-Eastern Circuit](#), [North-Eastern Circuit](#), [Northern Circuit](#), [Wales & Chester Circuit](#), [Midlands Circuit](#), [Western Circuit](#))
- Women's Fora. [Western Circuit Women's Forum](#); North-Eastern Circuit Women's Forum; [Midlands Circuit Women's Forum](#), Northern Circuit Women's Forum, Western Circuit Women's Forum; Wales & Chester Circuit Women's Forum.
- The Young Barristers Committee/Young Barrister Groups on Circuits and based at the Inns of Court.
- Barrister Networks including but not limited to the [Black Barristers' Network](#); [FreeBar](#); [BDABar](#), [Behind the Gown](#); [HerBar](#); [All Rise](#).
- Judicial networks e.g., Association of Women Judges
- [Wendy Nicholas, Psychologist](#) (North-Eastern Circuit)
- Student and Pupil Networks

## Appendix 4

- The '4 Bars' (NI, Ireland, Faculty)
- [American Bar Association](#)
- [New Zealand Bar Association](#)
- Australian Bar Association