



The Bar Council

Bullying, harassment and discrimination at the Bar

**Data from Barristers' Working Lives 2023 and
Talk to Spot reports received by the Bar Council
2019-2023**

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Foreword

Research data from Barristers' Working Lives¹ (the Bar Council's biennial survey of the profession), as well as reports to [Talk to Spot](#) and calls to the Bar Council's helplines, evidence a long-term problem with bullying and harassment, as well as inappropriate and undermining behaviour, which needs to be addressed.

In our regular surveys of the profession, barristers have been increasingly telling us that they have experienced or witnessed bullying, harassment, and discrimination. In our most recent survey, 44% of respondents said they had experienced or observed this behaviour while working either in person or online. This is an increase from 38% in 2021 and 31% in 2017.

The behaviours reported are observed across the profession and involve judges, barristers, chambers' staff, solicitors, as well as court staff. People who experience these behaviours include Bar students. Behaviours witnessed in the court room have led to clients questioning if their case will be fairly considered, compromising their trust in the justice system.

We have identified a genuine fear that to report might have detrimental repercussions for an individual's career at the Bar. Some people have been told, as part of the bullying behaviour, that if they complained they would never work at the Bar again.

We know that bullying and harassment, inappropriate and undermining behaviours can be a consequence of power inequalities, and the legal profession is not the only sector with this challenge. But the evidence suggests that there is a widespread problem at the Bar. We consider that this problem is both cultural and a consequence of the external pressures on professional life within an acutely under-resourced justice system. This is therefore a systemic issue for the Bar.

It is likely to be helpful to consider different behaviours separately, as the causes and solutions may be different. For example, the incidences of rudeness and incivility reported to the Talk to Spot platform may be substantially a result of increasing pressures on everybody in the system. Court backlogs, delays and scarce resources add to the already heavy workload and can result in impatience and frustration, which can be experienced as bullying. Discrimination and harassment, however, cannot be explained or excused by these external pressures.

¹ [Barristers' Working Lives: Bullying & Harassment \(2017\)](#); [Barristers Working Lives 2021](#); Barristers Working Lives 2023 (unpublished).

We also believe the profession's response cannot be to focus on reporting alone. Waiting for individuals to make complaints places the burden of effecting collective cultural change on those most gravely affected. Our experience of this, and evidence from elsewhere, shows that this will never work and will not address the systemic issues which create the problem.

The solutions are complicated. We believe encouraging and responding to individual reports must now be combined with more preventative measures.

We therefore intend to commission a Bar-wide review to identify solutions, specifically to identify prevention and mitigating strategies that will help address unacceptable behaviours.

We propose to spend the next few months agreeing the remit of this review and would welcome your views.

Nick Vineall KC
Chair of the Bar
December 2023

Summary and recommendations

Reports of bullying, harassment, and discrimination are increasing. It may be that greater awareness and coverage of these issues has resulted in barristers feeling more confident in identifying and reporting experiences, or it may be that the prevalence of bullying is increasing. Either way, the level of reporting of bullying, harassment and discrimination suggests an entirely unacceptable state of affairs.

We know that those who are more at risk of experiencing bullying, harassment and discrimination are women, people of colour, and younger and more junior members of the Bar. We also know that those complained about are generally those in a position of power or influence: judges, more senior barristers, senior clerks, and practice managers. The main reason given for not reporting bullying, harassment and discrimination is fear of the repercussions.

Key themes emerging from Talk to Spot reports include:

- Sexual harassment and serious abuse
- Patronising, belittling, overbearing and demeaning behaviour, especially by judges
- Sexist, racist and ableist² behaviours
- Online abuse
- Failure to make reasonable adjustments to meet the needs of disabled barristers; and difficulties faced by those with caring responsibilities

Across all of these themes there is a fear of reporting and a desire for anonymity.

While significant work has already taken place, there is clear evidence that harassment, bullying, inappropriate and undermining behaviours are still an issue in the profession.

We hope by working together we can change the culture so that everyone at the Bar can thrive and enjoy a fulfilling career. Everyone will benefit from a cultural shift because everyone is ultimately affected by these behaviours.

² Ableism means prioritising the needs of non-disabled people. In an ableist society, it's assumed that the "normal" way to live is as a non-disabled person. (Source: Sense.org.uk)

Recommendations

Having considered the findings and all the information we have gathered on this issue, we make three recommendations for action:

1. The Bar should approach bullying, harassment and discrimination as a systemic issue that requires a response across the whole profession. We hope the judiciary, clerks, chambers professionals and the Inns can work together with the Bar Council to bring about the culture shift that is needed.
2. The Bar Council should commission a review to be established by Spring 2024 and to report by Spring 2025 to: (i) consider the impact of different types of bullying, harassment and discrimination on barristers, their staff, and clients; (ii) identify improvements to existing reporting and other processes when these behaviours are experienced and complaints are made; and (iii) consider effective prevention and mitigating strategies.
3. In the meantime, the Bar Council should ensure existing resources (helplines, guidance, advice, and support) are available and are easily accessible for those who need them and, in particular, continue to promote the Talk to Spot tool that allows complaints to be logged, and logged anonymously if that is what the complainant wants to do.

Introduction

This report includes a summary of Barristers' Working Lives data on bullying, harassment, and discrimination.

It also includes a summary of the type of reports we receive via [Talk to Spot](#) (a secure web-based platform for barristers that enables them to provide information on incidents of inappropriate behaviour) and the action taken/advice provided as a result.

Information on the types of behaviour which may constitute bullying, harassment and discrimination can be found in separate Bar Council [guidance](#).

Based on the above, and extensive work on this issue within the Bar Council's Equality, Diversity and Social Mobility Committee, individual chambers, and barristers, we propose three recommendations for action (see Summary and recommendations on pages 5-6).

Definitions

Throughout this report we refer to bullying, harassment and discrimination. The Bar Council uses the following definitions:

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

Harassment: a technical term defined in 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."

Discrimination: defined in the Equality Act 2010 as less favourable treatment because of a protected characteristic (age; disability; gender reassignment; marriage and civil partnership; pregnancy & maternity; race; religion & belief; sex; sexual orientation).

Background

The Bar Council has been committed to tackling bullying and harassment for many years.

New data (from Barristers' Working Lives 2023) builds on existing data from previous research and surveys on this issue. These include:

- [Barristers' Working Lives 2013](#)
- [Barristers' Working Lives 2017](#)
- [Barristers' Working Lives 2021](#)
- Barristers Working Lives 2023 (unpublished to date)

Additionally, from surveys by others in the legal sector, including the International Bar Association's [#UsToo](#) report in 2019, and more recently the [Equality, Diversity and Inclusion Report](#) published by Lincoln's Inn.

Work we have undertaken to date, in response to research and reports of bullying and harassment in the profession, includes:

- An action plan published in response to Barristers' Working Lives 2017
- A guide to [tackling harassment and a harassment policy template](#) (including examples of [behaviours](#)) for chambers.
- Development and delivery of [Anti-Harassment & Bullying Training](#) (providing information on bullying and harassment and processes for managing a complaint) for all barristers and their employees.
- [Bullying resources](#) on the Wellbeing at the Bar website, including information on recognising behaviours and advice on what to do.
- The [Talk to Spot](#) platform for recording incidents and a mechanism for providing confidential support and advice to someone who can remain completely anonymous.
- An Equality Diversity and Social Mobility (EDSM) Working Group report and recommendations 2022.
- A [dedicated page](#) on the Bar Council website with links to support and information.
- [Bespoke advice & support to chambers and victims/witnesses](#) (including providing extensive support to those who contact us via Talk to Spot and wish to then pursue a formal complaint).

Barristers' Working Lives data

Methodology

Barristers' Working Lives is a regular survey of the Bar, first carried out in 2011 and undertaken on behalf of the Bar Council by the Institute of Employment Studies supported by Employment Research Ltd.

The 2023 survey was designed to provide continuity of analysis from the 2021 and 2017 surveys and allow for monitoring of trends.

The survey in 2023 was anonymous and entirely online and marketed through a wide variety of communication channels over a period of approximately six weeks. The whole population of practising barristers in England & Wales³ was surveyed between 18 April and 5 June 2023 – direct email invitations were sent to around 9,000 barristers who had opted in to taking part in research, and the rest of the Bar had an opportunity to engage with the survey through BarTalk emails (an e-newsletter that goes to all practising barristers), social media and adverts/mentions in *Counsel* magazine. Inns, Specialist Bar Associations and Circuits were also asked to encourage their members to respond to the survey.

Ultimately 3,535 barristers responded (of the 16,900 barristers who received messages to participate in the survey) a response rate of 20.9%. The bullying, harassment and discrimination questions were optional within the survey and 7% of all respondents wished to skip this section, leaving 3,030 respondents willing to complete the bullying, harassment and discrimination questions (17.4% of the Bar).

This provides sufficient responses from important sub-groups of barristers to allow representative analysis and presentation of findings, particularly because analysis of the demographic of the respondents showed it to be broadly representative of the Bar as a whole.

The Barristers' Working Lives survey is the only mechanism for surveying the entire Bar and, as such, provides key monitoring data for the profession.

³ Pupils were not part of this survey.

Findings

1. 44% (1344) of respondents said that they had experienced or observed bullying, harassment, or discrimination in the last two years (up from 38% in 2021 and 31% in 2017).

Personally experienced bullying, harassment, or discrimination

2. 30% of respondents said they had personally experienced bullying or harassment in person at work (it was 25% in 2021). 15% of respondents said they had personally experienced bullying or harassment while working online (13% in 2021).
3. 16% said they had personally experienced discrimination in person at work (14% in 2021); a further 7% said they had personally experienced discrimination while working online (6% in 2021).

Observed bullying, harassment, or discrimination

4. 24% said they had observed bullying or harassment in person at work. A further 11% said they had observed it while working online. In 2021, 21% said they had observed bullying or harassment in person at work or working online.
5. 15% said they had observed discrimination in person at work and a further 7% had observed it while working online. In 2021, 15% had observed discrimination either working online or in person at work.

Who is affected?

Bullying and harassment

6. Barristers working in criminal and family practice were more likely than average to have experienced bullying or harassment (43% and 37% respectively), as were sole practitioners (working outside of a set of chambers) (38%, or 22 out of 58).
7. When analysed in seniority bands, 44% of barristers between 3 and 7 years' Call had experienced bullying or harassment, 34% of those between 8 and 17

years' Call, and 32% of new practitioners of less than 3 years' Call had experienced bullying or harassment.

There is variation by personal and social characteristics:

8. 41% of female respondents reported experiencing bullying or harassment (in the last two years) compared with 19% of male respondents.
9. 40% of barristers aged 34 and younger had (in the last two years) reported experiencing bullying or harassment compared with 31% of those aged 35 to 54, 23% of those aged 55 to 64, and 14% of those aged 65 and over.
10. 43% of barristers from ethnic minority backgrounds reported bullying or harassment compared with 27% of white barristers.
11. More than half (52%) of female barristers from ethnic minority backgrounds reported experiencing bullying or harassment, compared with 39% of white female barristers. 31% of male barristers from ethnic minority backgrounds, and 17% of white male barristers.
12. 38% of barristers with non-Christian religious beliefs reported experiencing bullying or harassment, compared with 30% of those with Christian beliefs, and 27% of those with no religion.
13. 38% of LGBTQ barristers had experienced bullying or harassment, compared with 28% of heterosexual barristers.
14. 46% of barristers with a disability had experienced bullying or harassment, compared with 28% of those without a disability.
15. 33% of barristers who went to a state school had experienced bullying or harassment, compared with 24% of those who went to an independent school.
16. 52% of barristers who cared for an adult for 50 or more hours per week had experienced bullying or harassment, compared with 38% of those who cared for an adult for fewer than 50 hours per week, and 27% of those with no adult caring responsibility.

Discrimination

17. 26% of female respondents said they had experienced discrimination compared with 9% of male respondents.
18. 22% of barristers aged 34 and younger said they had experienced discrimination compared with 19% of those aged 35 to 44, 17% of those aged 45 to 64, and 6% of those aged 65 and over.
19. 39% of barristers from ethnic minority backgrounds said they had experienced discrimination compared with 14% of white barristers.
20. 43% of female barristers from ethnic minority backgrounds said they had experienced discrimination, compared with 32% of male barristers from ethnic minority backgrounds, 22% of white female barristers, and 7% of white male barristers.
21. 31% of barristers with non-Christian religious beliefs had experienced discrimination, compared with 18% of those with Christian beliefs, and 14% of those with no religion.
22. 22% of LGBTQ barristers said they had experienced discrimination, compared with 16% of heterosexual barristers.
23. 31% of barristers with a disability said they had experienced discrimination, compared with 16% of those without a disability.
24. 20% of barristers who went to a state school and 27% of those who were educated overseas said they had experienced discrimination, compared with 14% of those who went to an independent school.
25. 21% of barristers with childcare responsibilities said they had experienced discrimination compared with 16% of those with no childcare responsibilities.
26. 44% of barristers who cared for an adult for 50 or more hours per week said they had experienced discrimination compared with 36% of those who cared for an adult between 20 and 49 hours per week, 24% of those who cared for an adult up to 20 hour per week, and 16% of those with no adult caring responsibility.

Types of behaviour

27. Of those respondents (1344) who said that they had experienced or observed bullying, harassment, or discrimination, 62% reported ridicule or demeaning language and 60% reported a misuse of power or position. 31% reported overbearing supervision or undermining of work.
28. 122 respondents reported either experience of or observing sexual harassment. Noting this is a small sample size from which to draw conclusions, 82% (100) reported sexual or sexist comments, remarks or sounds and 43% (52) reported inappropriate physical contact. Other types of behaviour mentioned included sexual propositions, being the subject of sexist behaviour (e.g., on work WhatsApp groups), receiving sexually explicit content via email or social media, bragging⁴, use of demeaning language, stalking and unwanted attention.

Person responsible

29. Of the 1233 barristers who reported experiencing or observing bullying and/or harassment, the majority (53%) reported a member of the judiciary as the person responsible for bullying and harassment (up from 45% in 2021) followed by a more senior barrister (31%) or a barrister at the same level (14%).⁵

Practice areas

30. Barristers working in crime and family were most likely to report experience of ridicule or demeaning language, overbearing supervision, and misuse of power or position. At the commercial bar, more respondents reported experiencing exclusion or victimisation.

⁴ This includes bragging about sexual conquests or virility which is a recognised form of sexual harassment in the workplace.

⁵ The wording of the question was different in 2021. We only offered the option "another barrister" and 48% selected this so we are unable to provide a direct comparison.

Location

31. 59% of those who reported an incident of bullying, harassment or discrimination said it took place at court. 36% stated it took place in their workplace (chambers/employer). One in five (20%) said that it took place online (e.g., via Teams/Zoom etc.) and 4% cited social media. In 8% of cases, it was at a work social event.

Policy and support available

32. 84% (in 2021, 81%) of all respondents reported that their workplace has a policy relating to bullying and harassment. Of those who indicated that there was a policy in place three quarters (76%) said that it was 'fit for purpose'. In 2021, this was 92%. 6% said it was not fit for purpose and 17% did not know. Barristers working at the employed Bar (63%) were less likely to report their policy was fit for purpose than those in chambers (78%). Members of the criminal Bar were slightly more likely to say that the policy in place where they work was not fit for purpose (9% of the criminal Bar said the policy where they worked was not fit for purpose compared with 6% of those working in other areas of practice).
33. Those barristers who had experienced bullying, harassment or discrimination were less likely to say the policy was fit for purpose (61%) compared with 77% of those who had observed it.

Reporting experience

34. 15% (439) of respondents said they had reported an incident of harassment or bullying at the Bar.
35. One in four (26%) of those who had observed or experienced discrimination, said that they reported the incident.
36. Of those who had reported an incident, 49% of those who reported to their employer/chambers were satisfied with the response; compared with 46% of those who had reported to another barrister; 27% of those who had reported to the Bar Council's Talk to Spot tool; and 17% of those who had reported to the BSB.

37. 42% (1159) of those who chose not to report feared repercussions were they to report. A third (29%) lacked faith in the protocols/reporting procedure. 26% did not want to revisit the incident.
38. Women were much more likely than men to say they feared repercussions in the workplace to themselves (48%) compared with 32% of men; women (13%) were also three times more likely to fear not being believed than men (4%).

Talk to Spot data

[Talk to Spot](#) is an online tool designed to support anyone working in and around the Bar to raise concerns about bullying, harassment, and inappropriate behaviour, and access support to act.

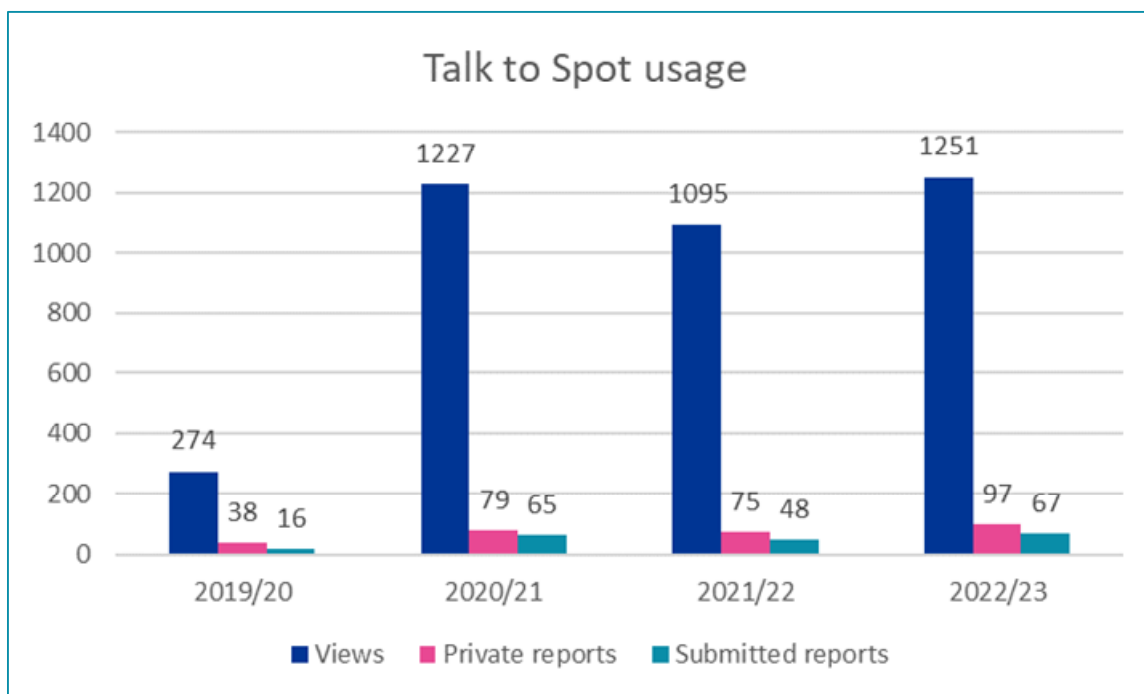
Launched on 1 August 2019, Talk to Spot is part the Bar Council's wider commitment to tackling bullying, harassment, and inappropriate behaviours at the Bar, which includes training, guidance and support for individuals and chambers.

Who uses Talk to Spot?

Although anyone working in and around the Bar can use Talk to Spot, the vast majority of those who submit their reports to the team at the Bar Council are barristers.

After a slow start in year one, the platform now receives over a thousand views⁶ every year and an average of five or six records submitted to the Bar Council every month. See graph on page 17.

⁶ Views are where someone has gone onto the platform and started but not completed a report. *Private reports* create a record for the individual that can be used as a contemporaneous record. Bar Council cannot see the detail, only that a report has been made. *Submitted reports* are when the individual gives permission for the report to be passed to Bar Council. This can be anonymous.



The annual data hides fluctuations in use. When there is some publicity about the platform reports increase, or around Christmas when we see an increase in reports of sexual harassment following parties.

What is being reported on Talk to Spot?

In the first year around half of the reports made via Talk to Spot were about bullying of counsel by judges. Others were a mix of sexual harassment and inappropriate behaviour by opposing counsel or colleagues at the Bar. From the start we have received the occasional report about the behaviour of professional or lay clients, but the vast majority of those whose behaviour is reported are barristers or judges.

The pandemic changed the way the Bar worked, and once lockdowns, isolating and remote working became a necessity, we saw Talk to Spot being used to record non-compliance with Covid restrictions. Later in 2020, we introduced a separate flow so Covid reporters were asked more relevant questions and reports could be handled separately to other types of inappropriate behaviour.

The beginning of 2021 saw a significant increase in reports about Covid, as the rules became more complex, courts were opening, and barristers were having to travel again. Talk to Spot reports included concerns about non-compliance with the rules, judges who were unsympathetic to lockdown or travelling restrictions, lots of barristers worried about contracting Covid while doing essential work.

The Bar Council team were able to raise the issues shared in the reports in regular meetings with HMCTS (HM Courts and Tribunals Service), MoJ (Ministry of Justice) and the Judiciary throughout the period, ensuring everyone's safety was considered.

By mid-2021, there were fewer Covid-related reports. In 2022, the nature of complaints returned to issues of poor behaviour and bullying by judges and other barristers in court, issues in robing rooms or on social media, and poor support by colleagues in chambers. We also received reports of sexual harassment against those wanting to come into the profession, which, with the consent of those making reports, were relayed to the relevant authorities as a matter of urgency.

2023 has continued in the same vein. In the last 10 months, there have been 47 Talk to Spot reports submitted to the Bar Council team - 28 have been about judges behaving rudely or inappropriately and 17 have concerned other barristers.

Building a picture of bullying, harassment, and inappropriate behaviours at the Bar

The records submitted to the Bar Council Equality team are confidential and often submitted anonymously. Consideration of reports provides an insight into where things might be going wrong, and where interventions might be needed.

For this report, we have identified the following themes:

Theme 1 – Sexual harassment and serious abuse

It was always understood that one of the benefits of a tool like Talk to Spot is the ability to identify patterns. The platform means we can see where there are multiple reports about the same behaviour, whether that is by the same (named) person or in the same context.

The nature of bullying and harassment means it often occurs where no one else sees it, and victims are inhibited from reporting because they think they will not be believed, or they misunderstood the situation, or they did something wrong, or that telling someone will make things worse.

When we receive multiple reports about the same person, we can bring reports together and reassure complainants simply by telling them there has been another report about the individual they named. Knowing that there are others who have complained can give complainants confidence to take the next step and make a formal complaint.

The Bar Council is also able to build a better picture of behaviours, even if the individual reports do not go further, and interventions can be put in place to try and address the behaviours reported.

It should be acknowledged, however, that even when we get multiple reports about the same person, it remains difficult to act unless individual complainants can be supported to take the next step and make a formal report.

Theme 2 – Patronising, belittling, overbearing and demeaning behaviour

Judges hold power in the courtroom, from how a case is heard, who can speak and how it will be resolved. When this authority is wielded unprofessionally, even unfairly, it can be incredibly undermining, especially for less experienced or more isolated advocates.

Reports have included examples of judges being patronising, particularly towards junior barristers and newly qualified barristers. Barristers have also given examples of being constantly interrupted, sarcasm, threats of professional misconduct in court, implying counsel has been lying, being aggressive and unpleasant.

Other reports have detailed being undermined by senior colleagues in chambers, opposing counsel and senior clerks. Barristers have also given examples of other counsel being intimidating (including sexually), hostile, inflexible, creepy, scornful, belittling and patronising.

Some of the examples shared on the Talk to Spot platform are more subtle undermining, for example, a judge being more understanding and even lenient with opposing counsel when they are late or miss a deadline, while being rigid with the complainant. This subtle bullying is hard to pin down but is incredibly undermining.

Theme 3 – Sexist, racist and ableist behaviours

Many of the behaviours described in the reports are experienced as racism, sexism, and/or ableism, especially by more junior barristers. Some say they feel that they are being treated in this way because of their sex or race, and they do not see their colleagues being subjected to the same sort of treatment.

In some instances, barristers have challenged behaviours, but these challenges are often met with denial or a demand to 'show me exactly what I did/said which was racist' rather than listening to how their behaviour is experienced.

Sometimes bystanders submit reports, speaking up for colleagues after witnessing inappropriate behaviours. This can be powerful; undermining the power dynamics which inhibit reporting.

Theme 4 – Online abuse

The Bar's social media discourse is not immune from the general decline in civility witnessed online in the last few years. Complaints made on Talk to Spot include examples of rudeness and inappropriate comments which are hard to imagine anyone saying to another's face but a person was completely disinhibited from posting on social media.

Abusive comments which may not appear serious to some people can cut very deep to others, and where the comments are made by a much more senior member of the Bar, they can have a disproportionate impact.

Theme 5 – Discrimination due to a failure to make reasonable adjustments to meet the needs of disabled barristers; and difficulties faced by those with caring responsibilities

Barristers have reported arbitrary and unreasonable extension of hearings at short notice where no consideration is given to those with caring responsibilities. For example, one person complained that a magistrate had wanted a case to go until 19:00 and when counsel said they couldn't do it, due to caring commitments, they were laughed at in court while opposing counsel implied that they were lying.

We have had reports from disabled barristers saying that judges have refused to follow a fair process or explain why they are not prepared to allow the reasonable adjustments that the barrister requested, for example a remote hearing.

Some of those making these complaints feel that the uncertainty of having to rely on individual judges to accept requests for adjustments is hard to manage. It results in them questioning if this is the right career for them and makes managing their day-to-day lives very tricky.

Fear and anonymous reporting

Many of the reports are submitted anonymously and complainants don't respond to follow up questions. It appears that for some, the act of recording what happened, and how it made them feel is enough. For others, there is a significant fear that sharing their name and details about where they work will be detrimental to their future at the Bar.

Dealing with anonymous reports is a challenge for any institution. It is impossible to verify anonymous reports so formal reporting routes are not available. Even when

serious incidents are reported, without a proper process it is not possible to draw conclusions.

These limitations do not render anonymous reports redundant. We are able to use the information to build a picture of what is happening, and the platform allows us to go back to complainants, even when we do not know who they are, to offer support, reassurance, and information.

How the behaviours make people feel

We always ask people who make reports to tell us how the behaviour has made them feel.

The most frequently reported words are ashamed, anxious, alone, depressed, disappointed, embarrassed, humiliated, insecure, shocked, unsupported, useless.

Many questioned whether this is the profession for them and have considered leaving the profession.

There is often shock that these behaviours are happening, and that there is very little being done about it. There are often bystanders and witnesses to the behaviours, and their lack of action or response reinforces the isolation and humiliation experienced.

How we respond

Around half of those who submit a report on Talk to Spot do so anonymously. They are happy to share their experiences, and most share the name of the person whose behaviour triggered the complaint and information about where it happened, but not who they are themselves.

In these instances, experienced members of the Bar Council's Equality and Diversity Team⁷ respond via the platform, signposting to more information or support, offering a phone conversation or email exchange, and pointing out routes to making a formal complaint depending on the nature of the incident. Most of the time reporters take no further action, and the Bar Council team keep a log of what happened and close the record.

⁷ Two named members of the Bar Council's Equality Team (Head of Equality & Diversity and an E&D Consultant) have access to the Talk to Spot platform. Both have extensive experience and training in dealing with issues of bullying, harassment, and discrimination.

In some instances, complainants have followed up and, usually after a telephone call to discuss the pros and cons of the options open to them, have been supported to take further action.

Support can take a variety of forms. Examples of support we have provided include:

- With the permission of the person making a complaint, contacting a barrister responsible for the inappropriate behaviour directly or supporting the complainant in contacting the barrister responsible for the behaviour.
- With the permission of the person making a complaint, contacting the chambers of a barrister responsible for the inappropriate behaviour directly, or supporting the complainant in contacting the chambers of the barrister responsible for the behaviour.
- With the permission of the person making a complaint, contacting previous complainants (when complaints about a specific individual come up more than once) to establish if they would be willing to make a complaint on the understanding that others intend to complain (often complainants will only be willing to make a formal complaint if they know they are not alone).
- With the permission of the person making a complaint, contacting Circuit leaders/the Chair of the Bar to request an informal complaint is made to a senior presiding judge in instances where we receive complaints about judicial behaviours in a specific court centre.

Example of handling a complaint about a barrister

What happened: A barrister reported that opposing counsel was hostile and aggressive, including shouting and raising their voice in a hearing. This behaviour reduced the senior barrister making the report to tears.

What we did: We spoke to the complainant. We established there was limited scope for a formal complaint, but they did want something done about the behaviour.

What happened next: With the permission of the complainant, we spoke informally to the practice manager to establish if this was a course of conduct typical of the barrister. Having established this behaviour was out of character the practice manager spoke to the barrister, highlighted a concern had been raised and offered support.

Example of handling a complaint about a judge

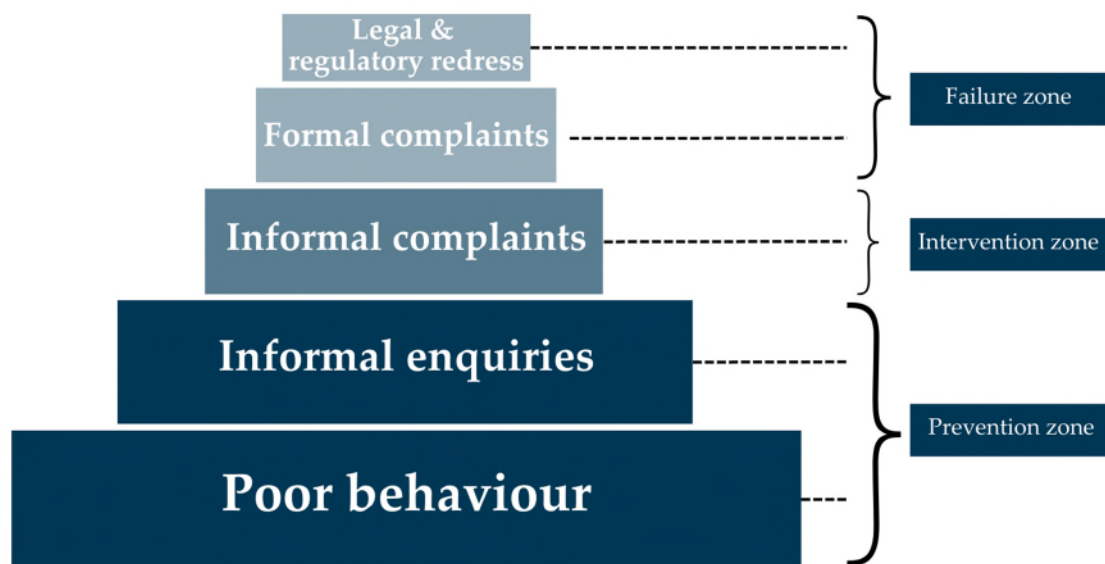
What happened: A barrister reported a judge repeatedly making disparaging comments about them during a trial. Opposing counsel noted in the robing room that the judge appeared to be singling them out for particularly harsh treatment and the client was very concerned that the attitude of the judge towards their advocate could prejudice the case. The barrister was understandably extremely upset by this.

What we did: The judge had been named in a separate report about a year earlier, so we were able to get back in touch with the earlier complainant and ask, if there was someone else making a similar report, whether they would be willing to take further action, which they agreed to. We then responded to the new report on the Talk to Spot platform, sharing information about the JCIO complaints process, explaining that theirs wasn't the first report about this judge.

What happened next: A complaint was submitted to the JCIO, but they wouldn't consider the earlier incident as they have a strict three-month time limit on reports. The Bar Council can use the information to keep the judiciary informed about multiple reports about the same judge which encourages informal action and will continue to press for a more flexible complaints process which allows complaints from people outside of the time limits in certain circumstances.

Framing bullying and harassment interventions at the Bar

To support any review of activity in relation to bullying, harassment and discrimination, it can be useful to consider interventions in terms of the pyramid⁸ below.



This pyramid depicts the relative importance of different activities and can be helpful in establishing where we need to prioritise action and resources.

Legal and regulatory redress and formal complaints might be considered as a ‘failure’ zone – they are there to be used when things go wrong. These formal processes are often adversarial and punitive and, in many instances, are not considered fit for purpose. A formal process can cause trauma to all involved – retraumatising a victim who is expected to carry the weight of pursuing the complaint, but also witnesses, bystanders, the perpetrator and those involved in

⁸ This pyramid (Rayner 2005) is adapted and reproduced courtesy of [Conduct Change Ltd](#) and is featured in a published white paper ‘[Using Neuroscience to Understand The Bullied Brain and Affect Change](#)’.

See Rayner, C. (2005) Reforming abusive organizations. Chapter in Bowie, V., Fisher, B.S., and Cooper, C.L. (Eds.) *Workplace Violence: Issues, trends, strategies* pp60-73 Willan Publishing

managing the process. They can also lead to reputational damage for chambers/any employer, and the whole profession.

Informal complaints and responding to issues as they arise might be considered as an ‘intervention’ zone. Putting in place processes which tackle poor behaviours or individual incidents to prevent escalation – the key is early intervention e.g., direct discussions, facilitated meetings, training interventions, coaching and mediation.

Informal enquiries and poor behaviour can be seen as a ‘prevention’ zone. Proactive work should be undertaken to prevent bullying and harassment e.g., by embedding behaviours where everyone feels they will be heard, valued, and respected.

We have mapped existing Bar based activity against this pyramid for ease of reference.

Examples at the Bar

Legal and regulatory redress	<ul style="list-style-type: none"> • Reporting to police (e.g., criminal charges, injunction etc.) • Reporting to the BSB (Serious misconduct investigation process and BTAS sanctions, up to and including potential disbarment)
Formal complaints	<ul style="list-style-type: none"> • Reporting to chambers/employer (up to and including expulsion from chambers/dismissal)
Informal complaints	<ul style="list-style-type: none"> • Raising a concern with Talk to Spot • Talking to an Equality and Diversity Officer (EDO) or someone else in chambers • Contacting the Wellbeing at the Bar Assistance Programme
Informal enquiries	<ul style="list-style-type: none"> • Contacting the Bar Council E&D or Ethics helplines • Attending a targeted seminar • Individual research and self-reflection
Poor behaviour	<ul style="list-style-type: none"> • EDI and Bullying & harassment training • Bullying and harassment policies inc. e.g., codes of behaviour