



**THE ASSOCIATION OF WOMEN BARRISTERS**

***IN THE AGE OF 'US TOO?': MOVING TOWARDS A ZERO-TOLERANCE ATTITUDE TO  
HARASSMENT AND BULLYING AT THE BAR***

**A REPORT ON THE ASSOCIATION OF WOMEN BARRISTERS' ROUNDTABLE ON  
HARASSMENT AND BULLYING WITH RECOMMENDATIONS**

**Lynne Townley and HHJ Kaly Kaul QC**

© 2019 Association of Women Barristers.

Published online on and available to download from the website of The Association of Women Barristers

<https://www.womenbarristers.org>

## Contents

Title Page	1
Contents page	2
The Authors	3
Preface	
Amanda Pinto QC, Chair-Elect of the Bar Council of England and Wales	4
Karen Shuman, Chancery Master	5
Executive Summary	6
Introduction and Background to the Roundtable	7-8
The definitions of harassment and bullying adopted for the roundtable discussion	
Harassment	8
Bullying	9
Examples of harassment and bullying at the Bar	9
During pupillage	10
Obtaining work	10
At court	11
In chambers and socially	11
Reporting harassment and bullying – a barrister’s obligations	11-12
Five key indicators for change and recommendations	13-14
Acknowledgements	15
Note on the Association of Women Barristers	16
Appendices	
Appendix 1: Terms of reference of the roundtable	17
Appendix 2: Roundtable publicity poster and announcement	18
Appendix 3: Further instructions to panel members and HHJ Kaly Kaul QC	19

## THE AUTHORS



LYNNE TOWNLEY

Called to the Bar as a Harmsworth Scholar in 1996 (Middle Temple) and by the Inn of Court of Northern Ireland (2018), Lynne is a criminal barrister and lecturer on the Bar Professional Training Course at City Law School, University of London. From 2003 – 2015, Lynne held a number of posts in the Crown Prosecution Service, including as a Crown Advocate, Advocacy Assessor, and Advocacy Manager for CPS London with responsibility for prosecution advocacy at Isleworth, Harrow, Wood Green, and Blackfriars Crown Courts. She was also a Senior Policy Advisor and CPS national policy lead on homicide; honour-based violence/forced marriage, and FGM. Lynne has been a member of the Ministry of Justice’s Murder Review Advisory Group (reviewing the law on murder and partial defences to murder) (2008 – 9) and the Legal Advisor to NHS Health Education England on the drafting of e-learning materials for all NHS staff on FGM (2014 – 15). Lynne is the current Chair of the Association of Women Barristers and was a Committee Member of the South Eastern Circuit Bar Mess (2013 – 15). She advocates for equal treatment of those from BAME, LGBT+, and other under-represented communities at the Bar. Lynne also seeks to raise awareness of the challenges faced by women barristers in their practice during pregnancy and after child-birth.



HER HONOUR JUDGE KALY KAUL QC

Called to the Bar in 1983 (Middle Temple), Kaly was appointed as a Recorder of the Crown Court in 2009 and took silk in 2011. Following her appointment as a Circuit Judge in 2015, Kaly was also appointed as a Diversity and Community Judge. The first permanent BAME judge to sit at Wood Green Crown Court, Kaly is the former chair and current Vice-President of the Association of Women Barristers and is a founder member of Women In Criminal Law (WICL). Since 2016, she has been a tutor judge for the Judicial College. Kaly has also held the following positions: Chair of the North London Bar Mess (2014-15); South Eastern Circuit Bar Mess Committee Member (1991 – 2015); Senior Representative on the Bar Council (2014), and CPS External Advocacy Assessor (2012 – 2015). She aims to do whatever she can to ensure that women, those from BAME communities and non-traditional backgrounds are afforded equal treatment at the Bar. Kaly also aims to raise awareness of intersectionality to ensure fair appointments, advancement and treatment.

## PREFACE

I welcome the AWB's important piece of work. The eradication of harassment and bullying at the Bar will inevitably lead to a better, more inclusive and sustainable profession, benefiting the public at large in the delivery of justice.

I am sure that the ability to maintain confidentiality is a huge incentive to victims of inappropriate conduct in reporting bullying/harassment. When a young barrister and subjected to such behaviour myself, I believed that if I told anyone about it, I would be viewed as a troublemaker and the end of my career would inevitably follow.

Although there are still concerns over behaviour at and towards the Bar, strides to change norms have already been made even since the AWB 2018 roundtable: the BSB now accepts that a victim of bullying/harassment does not commit a regulatory offence by not reporting serious professional misconduct; the Bar Council has lobbied the BSB to extend that exception to those the victim may speak to in confidence; also, in September 2019, it has launched a new tool (Talk To Spot) by which a barrister can make an anonymous contemporaneous record of their experiences easily, without the need to decide whether to make a formal report at all.

Calling out wrongful conduct is imperative. The Bar Council has also re-launched its confidential helpline supporting barristers faced with discriminatory or inappropriate behaviour. Together with closer liaison between the Bar and the judiciary to stamp out bullying and harassment, I am hopeful that we can change behaviours affecting barristers.

I congratulate the AWB not only on reporting on these problems but suggesting and promoting solutions to the difficulties regrettably faced by some, often female, barristers. By acknowledging and addressing the issues we are far more likely to retain a genuinely diverse and inclusive profession.

Amanda Pinto QC

Chair-Elect of the Bar Council of England and Wales

In a year when we are celebrating the centenary of the Sex Disqualification (Removal) Act 1919 this report is timely and the general experiences referred to in the report, disheartening.

We should not need to have this conversation in 2019, yet we are and the report clearly demonstrates why it is so very necessary.

I can only hope that the commendable, realistic and achievable recommendations of this report and the work being carried out by so many other agencies brings about real change. There is no place in our society for harassment and bullying, whether at the Bar or otherwise.

Karen Shuman

Master of the Chancery Division

Chair of the Equality, Diversity and Inclusivity Steering Group, Lincoln's Inn

## EXECUTIVE SUMMARY

The Bar Council's *Working Lives Survey* in June 2018 found that harassment and bullying at the Bar were not only prevalent, but were on the rise. Many studies have shown that women are disproportionately affected by both harassment and bullying<sup>1</sup>. These findings were of particular concern to the Association of Women Barristers (AWB) because the retention rates of women at the Bar drop dramatically after five and ten years call anyway<sup>2</sup>. In order to ascertain what was actually happening at the Bar and to consider what could be done about it, the AWB convened a roundtable discussion group in November 2018. The roundtable brought together a number of experienced practitioners, many of whom were leaders in their fields and/or had held positions of leadership at the Bar. The aim of the roundtable was two-fold. Firstly, to consider how harassment and bullying was affecting the profession. Secondly, to consider what could be done to assist those who had been bullied or harassed (and to seek to establish a zero tolerance attitude to this kind of behaviour in future). The roundtable dialogue indicated that there were a number of particular issues and attitudes prevailing at the Bar which were of concern because they created an atmosphere that permitted harassment and bullying to thrive. Recurring issues of particular concern to practitioners included the following:

- Power imbalances creating vulnerability eg during pupillage and with instructing solicitors.
- Unequal treatment around the distribution of work and inequitable briefing - for example over-looking women barristers for leading-briefs.
- Inappropriate behaviour in robing rooms and bar messes.
- Barristers being bullied by other barristers and a lack of awareness of the effects of bullying by some barristers.
- Poor facilities available for women and non-binary people at court centres.
- The existence of a culture of fear around reporting bullying/harassment and gender stereotyping.

We go on to make some recommendations and suggest five key indicators for change which we consider will make a real difference in future if appropriate energy and resources are focused there. We have divided these into the following themes:

- Changing the dialogue;
- Codes and policies;
- Training;
- Long-term support for those who experience/report harassment and/or bullying;
- Better facilities for women and non-binary people in court centres.

Action is needed and we hope that our five key recommendations for change can contribute to the ongoing dialogue and the work already being done in this area and also help to ensure that the momentum for change in the workplace remains strong.

---

<sup>1</sup> The recent survey by the International Bar Association indicated that women and non-binary members of the legal profession internationally were more likely to have been sexually harassed. Of the 14 survey respondents who identified as non-binary or self-defined, 71% had been bullied and 43% had been sexually harassed. Kieran Pender, 'Us Too? Bullying and Sexual Harassment in the Legal Profession' (2019, The International Bar Association).

<sup>2</sup> See further Lynne Townley, 'Not (Yet) Glass Shattering', *Counsel Magazine* (September, 2018), 21 - 22

## INTRODUCTION AND BACKGROUND TO THE ROUNDTABLE

Following discussions between the AWB Chair, Lynne Townley, and AWB Past-Chair and Vice-President, HHJ Kaly Kaul QC, during the summer of 2018, a round-table discussion was convened on 30 November 2018 to consider the problem of harassment and bullying at the English Bar and to share suggestions for good practice moving forward. The event was held by kind permission at the offices of the Bar Council and was open to all those members of the AWB or the Bar who wished to attend to observe (and, if they wished, to contribute via a Q and A session). The 11 participants in the roundtable discussion were each invited with a view to ensuring that all levels within the profession (including those from under-represented groups at the Bar), had a voice in the room.

During the course of the discussion, it became apparent that barristers' clerks had a very important role to play, not just when it came ensuring a fair playing-field for all within chambers, but in providing an important support-mechanism for barristers struggling to come to terms with incidents of bullying or harassment that had occurred in the workplace. Flexible and empathetic clerking also appeared to be a key factor that could be instrumental in discouraging such behaviours. Time and again the importance of having supportive clerks was emphasised. So for that reason, we decided to consult with leading representatives of barristers' clerks and chambers' chief executives, whom we met during the course of the past year in order to continue the discussion started at the roundtable.

Our immediate catalyst to convene the roundtable was the publication of the findings of the Bar Council's *Working Lives Survey* in June 2018. The survey found that harassment and bullying were not only prevalent, but were on the rise, at the Bar. The then Chairman of the Bar Council, Andrew Walker QC, expressed concern, commenting - 'Over the last 12 months a spotlight has been shone on harassment and abuse of power ... The results are a cause for concern and cannot be ignored...'.

The roundtable was also timely as momentum to end unacceptable behaviours within the workplace (in all forms) had been growing apace at an international level since the autumn of 2017. The '#Me Too' movement against sexual assault and sexual harassment (which was started by women working in the film and entertainment industry in the United States) had spread 'virally' on the internet and into popular media and culture. In June 2018 the results of the Law Society's *Women in the Law*<sup>3</sup> survey were published. These indicated that women were still being prevented from reaching senior positions in the legal profession due to systemic issues such as unconscious bias, unacceptable work/life balance, and the fact that traditional networks to promotion remained more male-orientated.

The call for action has already been taken up at the Bar through the welcome formation of a number of specialist womens' groups<sup>4</sup>. The Western Circuit Womens Forum<sup>5</sup> was set up in 2015, with Women in Criminal Law launching in 2018<sup>6</sup>. We are grateful to these organisations for sending representatives to participate in the roundtable discussion. At the time of writing, The South Eastern Circuit is setting-up its own womens forum. We would also highlight the immensely important work being undertaken by Behind the Gown, which specifically focuses on tackling harassment and abuse of power in the profession.<sup>7</sup>

---

<sup>3</sup> <https://www.lawsociety.org.uk/news/press-releases/largest-ever-survey-on-gender-equality-in-legal-profession/>

<sup>4</sup> Including The Temple Womens Forum (established in 2012) and Lincoln's Inn Womens Forum.

<sup>5</sup> For more information see <https://westerncircuit.co.uk/womens-forum/>

<sup>6</sup> See <https://womenincriminallaw.com>

<sup>7</sup> See <https://behindthegown.com>

In the intervening months since the roundtable convened, there have been a number of further important developments. In May 2019 the International Bar Association published its report *Us too? Bullying and Sexual Harassment in the Legal Profession*<sup>8</sup>. It analyses the results of the largest ever survey on bullying and sexual harassment in the legal profession. Data from 6,980 respondents from 135 countries was collected. The resulting statistics indicated that bullying was rife in the workplace (affecting one in two female respondents and one in three male respondents) and sexual harassment is also common. Respondents were clear that more needed to be done about both issues. Also in May, Farore Law published its report about the slow progress of women in the professions<sup>9</sup>. It is against this background of unprecedented momentum and calls for change that the AWB presents this report.

The roundtable had two aims. First to obtain further information about the sort of behaviour that was occurring at the Bar. Second, to consider and suggest solutions to the problem. We hope that our findings and suggestions serve to contribute to the ongoing discussion about how we might tackle bullying and harassment and ensure that they do not have a place at the Bar in the future. We would also like to take this opportunity to acknowledge all the great work that has already been done, and is continuing to be done, by many at the Bar in this area. We hope that this short paper can make a useful contribution to the important ongoing dialogue in this area. We believe that the call for change epitomised by the '#Me Too' movement has the capacity to result in a positive and worldwide step-change in the culture of the workplace.

### The definitions of harassment and bullying adopted for the roundtable discussion

The roundtable discussion looked at harassment and bullying<sup>10</sup>. We focused on general harassment rather than concentrating on sexual harassment, which is only one manifestation of the behaviour<sup>11</sup>.

#### Harassment

Under the Bar Standards Board Conduct Rules (which apply to all BSB-regulated persons) harassment is specifically defined as a matter of serious misconduct<sup>12</sup>. All barristers have a duty to report serious

---

<sup>8</sup> Kieran Pender, 'Us Too? Bullying and Sexual Harassment in the Legal Profession' (2019, The International Bar Association)

<sup>9</sup> Farore Law, 'How far have we come? An analysis of the recent progression of women in law and other professions in the UK' (May 2019). Available to download from <https://www.farorelaw.co.uk/farore-law-report-may-2019>

<sup>10</sup> While the distinction between the two is not always clear, harassment and bullying are distinct behaviours. See Carlo Caponecchia and Anne Wyatt, 'Distinguishing Between Workplace Bullying, Harassment and Violence: A Risk Management Approach' (2009) *Journal of Occupation Health and Safety*, Australia and New Zealand, 439.

<sup>11</sup> We considered that the issue of sexual assaults, harassment and other sexual misconduct had been the emphasis of much of the dialogue in the light of the '#Me Too' movement, so other types of equally prevalent (non-sexual) harassment also needed to be looked at.

<sup>12</sup> Under the Bar Standards Board Conduct Rules (guidance *gC96*) 'serious misconduct includes, without being limited to: (1) dishonesty; (2) assault or harassment' (The Bar Standards Board (February 2018) *The Bar Standards Board Handbook (3rd edition)*).



misconduct to the Bar Standards Board. This duty is not just confined to self-reporting, but extends to reporting serious misconduct by another barrister<sup>13</sup>.

For the purposes of the roundtable we relied upon the definition of harassment under the Equality Act 2010:

‘Harassment is 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’<sup>14</sup>.

## Bullying

The above definition of harassment includes and encompasses bullying behaviour. We looked at all aspects of bullying behaviour and not just those where there was an apparent power imbalance. Bullying by colleagues and other individuals was also discussed. For the purposes of this report, we acknowledge the existence of the many forms of workplace bullying as identified in a recent European Parliament policy study which considered workplace bullying to encompass aggressive behaviour or incivility by supervisors, colleagues or third parties<sup>15</sup>.

## Examples of harassment and bullying at the Bar

A number of issues of concern relating to different aspects of a barrister’s working life and to the distinct working practices and environment in which the Bar operates were identified at the round table. We have set out the discussion on harassment and bullying below with reference to the unique stages and aspects of the working life and practice of a barrister.

---

<sup>13</sup>Rule rC66 of the BSB Conduct rules provides: ‘Subject to your duty to keep the affairs of each client confidential and subject also to Rules rC67 and rC68, you must report to the Bar Standards Board if you have reasonable grounds to believe that there has been serious misconduct by a barrister or a registered European lawyer, a BSB entity, manager of a BSB entity or an authorised (non-BSB) individual who is working as a manager or an employee of a BSB entity’. (The Bar Standards Board (February 2018) *The Bar Standards Board Handbook (3rd edition)*). The issue of reporting serious misconduct is considered in more detail in the recommendations section of this report.

<sup>14</sup> Under s 26(1) of the Equality Act 2010 the unwanted conduct engaged in must be ‘related to a relevant protected characteristic’ (these are listed in s 26(5) as age, disability, gender re-assignment, race, religion or belief, sex, or sexual orientation). It is notable that the BSB guidance on reporting serious misconduct by other regulated-persons (at para 12) refers to the basic definition of harassment without referring to the protected characteristics. The International Bar Association drew on the UK’s Equality Act definition of harassment (without reference to protected characteristics) which it used for the purpose of its survey on bullying and sexual harassment internationally. See Kieran Pender, ‘Us Too? Bullying and Sexual Harassment in the Legal Profession’ (2019, The International Bar Association), 115. Harassment is also, of course, a criminal offence under the Protection from Harassment Act 1997 and that provision does not require a protected characteristic to be engaged.

<sup>15</sup> Helge Hoel and Maarit Vartiainen, ‘Bullying and Sexual Harassment at the Workplace, in Public Spaces, and in Political Life in the EU’ (European Parliament’s Policy Department for Citizen’s Rights and Constitutional Affairs at the request of the Committee on Women’s Rights and Gender Equality (FEMM), March 2018), 12.

## During pupillage

Participants thought that harassment and bullying were of particular concern during pupillage due to the existence of obvious power imbalances. Pupils were at risk of being bullied by more senior members of chambers (both male and female). There was also a fear that reporting incidents would be career-ending.

Female pupils can face even greater difficulties if they are pregnant and/or give birth during pupillage. This can be viewed as problematic and looked upon with disapproval in some chambers and by some clerks. It was also very difficult for pupils who were breast feeding to fit into the work schedule that was often undertaken by, and expected of, pupil barristers (eg covering hearings at short notice and picking up last minute 'returns' or travelling long distances to hearings).

It was also noted that many black and minority ethnic (BAME) women often have children much earlier in life than white middle-class women do. Hence some BAME pupils may already be mothers (or are more likely to give birth) during pupillage. Noting the observations in the paragraph above, this could lead to potential discriminatory issues arising during pupillage which, in turn, could impact on the career advancement and retention of BAME women at the Bar.

## Obtaining work

Women were more likely to have to deal with inappropriate behaviour on the part of some instructing solicitors. For example, a female barrister who quite properly chooses to decline an invitation to go for a drink with an instructing solicitor may receive no further briefs from that solicitor.

Women can often be 'over-looked' when it comes to being offered leading-briefs. Recently, judges sitting in the Employment Appeal Tribunal commented that the vast majority of those appearing before them as leading counsel were men. This appears to be mirrored in other specialist areas of the bar.

There is currently little transparency around individual barristers' incomes. There was a concern over pay-gaps that exist between male and female counsel – again particularly in specialist areas of the Bar. The lack of transparency around fees worries many women at the bar – as this can have far reaching consequences (for example, on the ability to apply for silk). Inequality of pay also leads to other imbalances of power between male and female counsel. This kind of environment also permits harassment and bullying to thrive.

Being able to build a good stream of work is crucial for success at the Bar. Therefore it was not surprising that participants emphasised the importance of good clerking time and again. Female barristers are disproportionately affected by caring responsibilities (for both children and elderly relatives). While some chambers are offering flexible working arrangements to barristers to permit a work/life balance, not all do so. While there has been progress around flexible working models on the part of some chambers, many do not have adequate policies around life events like maternity/parental leave. Many are not equipped to be able to offer flexible ways of working (eg by facilitating term-time only working). Many women also find it difficult to carry on working in chambers due to lack of planning by chamber's clerks in relation to managing maternity leave and returning to work following periods of maternity leave or career breaks.

## At Court

Inappropriate behaviour in robing rooms and bar messes still abounds. This can take a number of forms. For example, comments being made by male barristers about the appearance of female barristers and discussing which female barristers they 'wanted to shag'.

Participants also noted that women barristers often found themselves excluded from conversations about cases while in robing rooms and bar messes – particularly in multi-counsel cases where they often found themselves being 'talked-over' or ignored by male co-counsel.

There appeared to be a tacit acceptance amongst certain sections of the profession of this kind of behaviour. There is also a lack of awareness about bullying and about the effect of bullying on others. Peer to peer bullying was as much of a concern as being bullied by more senior members of the Bar. Those who bullied others often have no awareness of, or insight into, their behaviour.

While we acknowledge that the court estate has endured massive funding cuts in the last decade, this does not excuse the often non-existent or poor facilities for women and non-binary people at court centres. For example, we are concerned about the fact that there are sometimes no private facilities available at certain court centres where a woman who is breast-feeding can extract and dispose of breast milk. One participant found herself having to use a conference room for this purpose – but the door didn't lock.

Many courts also lack appropriate facilities for non-binary people (eg unisex toilet facilities). The failure to provide for these most basic of needs can lead to feelings of exclusion and feelings of 'not belonging' at the Bar.

## In chambers and socially

Participants identified a culture of fear around challenging, calling-out, or reporting harassment and bullying. We considered that many barristers would be afraid to speak-out against discrimination, harassment or bullying due to fear that to do so would negatively impact upon their careers - or that they could be 'victimised' by those more senior or their peers as a result.

The situation was not helped by the existence of a so-called 'gentlemanly' culture at the bar, one where it is considered to be inappropriate to report or 'call-out' bad behaviour by another barrister. Participants thought that this culture extended to the judiciary and there was also a perception that members of the bar at all levels would be slow to report or challenge inappropriate behaviour by other barristers.

It was also considered that 'old-fashioned views' still prevailed at the Bar about the way in which women are expected to behave. They were expected to be charming, funny and feminine. If a woman presented a 'full-on personality' she was often branded negatively (eg aggressive, strident etc). Whereas such negative labelling of this personality-type would be less likely to applied in the case of a man. The possibility of negative gender-stereotyping was also of concern to participants.

## Reporting harassment and bullying – a barrister's obligations

Members of the bar did not feel able to discuss harassment and bullying with other barristers because of the fear that this might trigger self-reporting obligations and that the person in whom they confide would

also be obliged to report the matter to the regulator<sup>16</sup>. Participants thought that some kind of ‘waiver’ from reporting should be available – so issues that could amount to reportable serious misconduct could be discussed without the fear of a report being made.

The participants would welcome some sort of reporting-waiver either for individual cases or generally (for example to permit individuals to share their personal experiences in a working-group environment without triggering reporting obligations in order to assist those drafting anti-harassment and bullying codes in the future). However, we appreciate that any ‘waiver’ of Conduct rule rC66 would be a matter for the Regulator. It is also accepted that there is a clear public interest in requiring the reporting of serious misconduct by members of the profession. Therefore any derogation from this principal would need to be measured and clearly defined so as not to diminish public confidence in the Bar.

Since the roundtable met, the Bar Council announced that it had partnered with a company, Spot.com, to support members of the profession who were victims of, or witnesses to, discrimination, harassment or bullying – either by other members of the profession, solicitors, judges or others.

Spot helps barristers talk through and record contemporaneously inappropriate moments at work (including at court). Barristers can then choose to print the report and send it to their chambers, their employer (if they are an employed barrister), the BSB or the Judicial Conduct Investigations Office (JCIO), and/or submit a report to the Bar Council or to simply save the report for their own reference/later use.

Spot is a web-based application and uses an ‘AI bot’ to ask questions about what happened. It is hoped that it will prompt barristers to record meaningful and pertinent information about their experience. No human (not even the Spot team or the Bar Council) will see what a barrister discusses with Spot unless they decide to submit a report (but even then it can be anonymous). The Bar Council cannot investigate a report/incident – only the BSB can do this, and only if a barrister manually submits their report to the BSB. The same applies regarding a formal complaint to chambers or the JCIO.

We welcome the introduction of this important initiative and consider that it will play a crucial part in changing the culture around harassment and bullying at the Bar. The launch of this report has been timed to coincide with the launch of the ‘Talk to Spot’ to the profession. The AWB will be working closely with the Bar Council in the coming months to promote and build confidence in the use of the ‘Talk to Spot’ tool.

---

<sup>16</sup> As discussed above, rC66 of the Bar Standards Board Conduct Rules imposes an obligation on barristers to report to the BSB if they have reasonable grounds to believe that there has been serious misconduct by another barrister.

## FIVE KEY INDICATORS FOR CHANGE AND RECOMMENDATIONS

### 1. Changing the dialogue

- Male ‘champions’ and mentors to help change the culture<sup>17</sup>.
- Established networks and groups advocating for the interests of women, BAME and other under-represented groups to work together and share good practice<sup>18</sup>
- Specialist anti-harassment/bullying panels to be set-up on all circuits for sharing of best practice and establishing of a national awareness event (eg an ‘anti-bullying month’).

### 2. Codes and policies

- Chambers to put in place anti-harassment/bullying policies (which must be kept under review to ensure that they remain fit-for-purpose).
- Chambers to adopt better and more flexible policies in relation to maternity leave and related policies.
- Chambers to enable more flexible clerking regimes to be developed – to take into account part-time working, term-time working, and putting in place appropriate plans for maternity leave and return.

### 3. Training

- Training to be introduced for judges, barristers and clerks on (i) awareness about bullying/harassment and what constitutes this sort of behaviour, (ii) unconscious bias, and (iii) equality and diversity.

### 4. Long-term support for those who experience/report harassment and/or bullying.

- Introduction of an agreed ‘flow chart’ detailing the process to be followed and actions that should be taken by someone who has experienced harassment or bullying and the introduction of a dedicated counselling ‘hotline’.

---

<sup>17</sup> In June 2019 the Association of Women Barristers introduced a mentoring scheme encouraging both male and female barristers to participate and to act as positive role models for the profession (when talking about the scheme on Twitter we adopt the hashtag #HeForSheAtTheBar) . See: <https://www.womenbarristers.com/mentor>

<sup>18</sup> For example, in June 2018 the AWB and the Society of Asian Lawyers (SAL) held a joint QC applications event to address under-representation of both groups in those taking silk. The SAL, WCWF, WICL and the Temple Womens Forum all participated in the AWB roundtable.

5. Better facilities for women and non-binary people at court centres
  - Her Majesty's Court and Tribunals Service (HMCTS) to ensure that there are appropriate facilities in place for the use of women who are breast-feeding/extracting breast milk and for non-binary people throughout the court estate.

## ACKNOWLEDGEMENTS

The following barristers were invited to participate in the roundtable discussion. The authors of this report and the AWB would like to thank them all for for generously giving of their time for the important purpose of adding to the understanding of how harassment and bullying can play out at the Bar and what the consequences can be.

Chair of round table: Lynne Townley, City Law School, University of London and Chair of Association of Women Barristers

Participants:

Kaly Kaul QC, Circuit Judge Wood Green Crown Court

Caroline Goodwin QC

Gillian Jones QC

Annette Henry QC

Julia Smart QC

Valerie Charbit

Fiona Jackson

Diana Wilson

Rachael Goodall

Harini Iyengar

Chamali Fernando

Evelyn Nevolin

The authors of the report are grateful to the following individuals who took the time to meet with them and for the valuable contribution that they made to this paper:

Lucy Barbet, Chair, Institute of Barristers' Clerks

Catherine Calder, Joint Chief Executive Serjeants' Inn Chambers and Co-Chair of the Legal Practice Management Association. Champion of the First 100 Years Project.

Nick Hill, Past Chair, Institute of Barristers' Clerks

Our grateful thanks to the following for facilitating and supporting the roundtable:

Sam Mercer and the Equality and Diversity Team at The Bar Council

All those who attended and made contributions to the round table discussion

The committee and members of the AWB.

Our grateful thanks to Amanda Pinto QC and Master Karen Shuman for writing the preface.

## NOTE ON THE ASSOCIATION OF WOMEN BARRISTERS

The Association of Women Barristers was founded in 1991 to monitor and represent the interests of women at the English Bar. In the interim the landscape of the Bar has changed significantly. However, in many more significant ways little has really changed for women at the Bar although misleading statistics indicate that there have been minor, cosmetic, advances which lull the unwary into a false sense of security: men and women are now obtaining pupillages in almost 50:50 parity – women slightly ahead in most years; success in obtaining tenancies is almost as good for women.

However the retention rate after five years, or, worse, after ten, is an entirely different story. It is still a huge obstacle to success for women in general at the Bar whom the AWB seeks particularly to represent. The identifiable problems we try to keep under review include: return to chambers after maternity leave or other career break, which remain a significant hurdle to clear for many, the concentration of women barristers in crime and family law which means they are disproportionately vulnerable to public funding cuts; statistics on judicial appointments which show a steadily rising percentage of women's participation, but which is largely confined to the lower judiciary, and the representation of women in the annual Silks List from which the higher judiciary come.

Accordingly, the AWB has never been more necessary. Our participation in succeeding consultations which slowly achieved these advances was directly responsible for changing the surface culture. The AWB therefore exists to offer mentoring, to share experiences of women who have stayed at the Bar through thick and thin, to provide guidance, support, information, workshops, companionship on social occasions, and to keep a watching-brief on other events that affect women at the self-employed and employed Bars.

### AWB CHAIRS

2018 – 20: Lynne Townley

2016 – 17: Lisa Wilson

2015 – 16: Neelam Sarkaria and Lisa Wilson

2014 – 15: Neelam Sarkaria

2013 – 14: Neelam Sarkaria and Maureen Heath

2012- 13: Pam Oon

2011 – 12 Pam Oon and Annie Cotcher QC

2010 – 11: Fiona Jackson

2009 – 10: Kim Hollis QC

2008- 9: Melissa Coutino

2007 – 8: Bozzie Sheffi

2006 – 7: Kaly Kaul QC

2005 – 6: Kandiah Bancroft-Binns

2002 – 5: Jane Hoyal

2000 - 2: Frances Burton

1999 - 00: Helene Pines Richman

1998 – 9: Jacqueline Perry QC

1996 – 8: Josephine Hayes

1995 – 6: Barbara Hewson

1994 – 5: Judge Susan Ward

1993 – 4: Elizabeth Jones QC

1992 – 3: Susan Soloman

1991 – 2: Jennifer Horne-Roberts

For further information or to join the AWB: <https://www.womenbarristers.org>



## APPENDIX 1

### Terms of reference of the roundtable

The roundtable was conducted in an open forum. The participants were given the following terms of reference:

‘WITHOUT MENTIONING NAMES OR MENTIONING ANY IDENTIFYING DETAILS THINK OF EXAMPLE(S) OF HOW BULLYING/DISCRIMINATION AFFECTED EITHER YOU OR PERSONS WHOM YOU WORKED WITH IN TERMS OF RETENTION/ ADVANCEMENT - EITHER CAREER OR PRACTICE, AND HEALTH.

(EXAMPLES COULD BE PEOPLE WHO LEFT THE BAR/LEGAL PROFESSION, MOVED CHAMBERS/ CHANGED PRACTICE AREA/ ACCEPTED ILL TREATMENT/ DID NOT ADVANCE OR APPLY AS A RESULT OF OTHERS FAVOURED/ WORK ALLOCATION BEING UNFAIR AND HEALTH/FAMILY ISSUES ARISING FROM THE STRESS OF THAT CONDUCT AS OPPOSED TO THE GENERAL STRESSES OF BEING SELF- EMPLOYED.)

1. TALK ABOUT IT BRIEFLY.
2. WHAT, LOOKING BACK, WOULD YOU HAVE LIKED TO SEE HAPPENING?
3. WHAT MEASURES CAN WE PUT IN PLACE TO HELP THOSE IN SIMILAR POSITIONS.

CONSIDER THE FOLLOWING BRIEFLY

4. WHILE COUNSELLING HAS ITS PLACE, AND THE EXISTENCE OF THE ANTI-BULLYING CODE IS CRUCIAL, HOW DO WE /OTHERS INFORM CONDUCT IN THE FUTURE?
5. WHAT HAPPENS IF SOMEONE HAS PROBLEMS, WHAT SHOULD HAPPEN?
6. SHOULD WE DRAFT A BEST PRACTICE DOCUMENT?’

## APPENDIX 2

Roundtable publicity poster/announcement



**ASSOCIATION OF WOMEN BARRISTERS**

PANEL AND ROUNDTABLE EVENT

**ARE YOU CONCERNED ABOUT DISCRIMINATION HARASSMENT OR BULLYING AT  
THE BAR?**

**DO YOU WANT TO ASSIST IN STOPPING THIS BEHAVIOUR?**

THEN PLEASE ATTEND OUR EVENT TO DISCUSS AND DEVELOP STRATEGIES

**FRIDAY 30 NOVEMBER 2018 AT 630 – 830 PM**

**AT THE BAR COUNCIL**

289-293 HIGH HOLBORN LONDON WC1V 7HZ

PANEL DISCUSSION FOLLOWED BY ROUNDTABLE WORKSHOP

**TO REGISTER OR FOR FURTHER INFORMATION PLEASE CONTACT:**

<Details removed from report>

*In June 2018, The Bar Council's 'Working Lives Survey' found that bullying is prevalent and on the rise at the Bar. Chair Andrew Walker QC said 'Over the last 12 months a spotlight has been shone on harassment and abuse of power ... The results are a cause for concern and cannot be ignored...'*

## APPENDIX 3

### FURTHER INSTRUCTIONS TO PANEL MEMBERS

WITHOUT MENTIONING NAMES OR MENTIONING ANY IDENTIFYING DETAILS THINK OF EXAMPLE(S) OF HOW BULLYING/DISCRIMINATION AFFECTED EITHER YOU OR PERSONS WHOM YOU WORKED WITH IN TERMS OF RETENTION/ ADVANCEMENT - EITHER CAREER OR PRACTICE, AND HEALTH.

(EXAMPLES COULD BE PEOPLE WHO LEFT THE BAR/LEGAL PROFESSION, MOVED CHAMBERS/ CHANGED PRACTICE AREA/ ACCEPTED ILL TREATMENT/ DID NOT ADVANCE OR APPLY AS A RESULT OF OTHERS FAVOURED/ WORK ALLOCATION BEING UNFAIR AND HEALTH/FAMILY ISSUES ARISING FROM THE STRESS OF THAT CONDUCT AS OPPOSED TO THE GENERAL STRESSES OF BEING SELF- EMPLOYED.)

1. TALK ABOUT IT BRIEFLY.
2. WHAT, LOOKING BACK, WOULD YOU HAVE LIKED TO SEE HAPPENING?
3. WHAT MEASURES CAN WE PUT IN PLACE TO HELP THOSE IN SIMILAR POSITIONS.

### INSTRUCTIONS FOR HHJ KALY KAUL QC

1. What does KK think we can do? much more publicity from all organisations, **an anti-bullying month** where each issues a newsletter, the key with bullies is to isolate and embarrass, and to call them out?
2. Large panels comprising women and men who are senior and in well-respected positions will give those who are bullying a wake-up call, and those who are being bullied the courage to stand up and try and change.
3. Meet twice a year to discuss developments and share ideas/good practice.
4. Judges to help!