The Bar Council

Tackling bullying, harassment and sexual harassment

A toolkit for chambers

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For further advice and support relating to bullying, harassment and sexual harassment contact:

The Commissioner for Conduct **commissioner@barcouncil.org.uk**

Equality helpline **equality@barcouncil.org.uk**

Ethical enquiries helpline **ethics@barcouncil.org.uk** or 0207 611 1307

Foreword from the Commissioner for Conduct

Baroness Harriet Harman KC's independent review of bullying, harassment and sexual harassment recommended establishing the role of Commissioner for Conduct, a post I took up in January 2026.

Since then, I have worked with my team at the Bar Council to develop and agree a protocol with the Bar Standards Board to make it easier to report serious misconduct. This guide includes information about how this will work in practice. It also provides clarity on how misconduct that doesn't meet the threshold of serious misconduct should be dealt with.

As barristers and executives involved in running chambers, you are responsible for the recommendations that relate to chambers' anti-harassment policies, constitutions, any anti-harassment and bullying training that you organise for members and staff, as well as your chambers' complaints handling process. You will be responsible for ensuring better safeguarding of pupils, as well as aspiring barristers undertaking mini-pupillages and work experience. At the Bar Council, we are here to support the work that you are doing in these areas.

Having listened to many heads of chambers and those in management positions in chambers, we have put together this comprehensive toolkit to ensure that you have easy access to guidance and policy templates. This will help you to comply with the Review's recommendations.

As your Commissioner for Conduct, my aim is to assist you to improve your policies as much as possible and I hope this toolkit is helpful. If you need additional advice or support on policy development or implementation, please don't hesitate to contact me via **commissioner@barcouncil.org.uk**.



I look forward to working with you over the coming years as we join together to bring about a behavioural change to tackle inappropriate behaviour, and to promote high standards and a professional culture in and around the Bar.

The Rt Hon Dame Maria Miller DBE
Commissioner for Conduct

Introduction

This comprehensive toolkit is designed to support you by bringing together existing guidance as well as new resources on tackling bullying and harassment. It provides clarity on chambers' responsibilities, as well as template policies.

It contains updates to existing Bar Council guidance and is intended to help build confidence and competence, making it easier for you to take appropriate action. **Baroness Harman's review** highlighted the need for clearer, more accessible and consistently applied processes to tackle bullying and harassment. We therefore encourage you to use this toolkit to ensure a more consistent and effective approach to these issues across the profession.

Who is this toolkit for?

This toolkit is intended for those in leadership and management positions in chambers, and those who have a role in setting expectations, overseeing policies and processes and driving cultural change.

Our toolkit is designed to be practical and accessible, supporting you to understand expected standards of behaviour as well as navigate your response when issues arise. It is intended to be used as a resource to reference when a particular issue arises, or a policy update is required, or you need supporting information to make the case for a specific approach.

How to use this toolkit

There is a lot of detail in this toolkit as it is an attempt to bring all of the relevant legal, regulatory and good practice guidance together. These are evolving and we plan to review this document annually, so do make sure you are referring to the most up to date version of the toolkit which will be available on the Bar Council website.

The contents page for each section are comprehensive to help you find what you need and dip in and out of the toolkit. If you're struggling to find what you need, please don't hesitate to get in touch with the Commissioner's team.

What's new?

Below are the recommended good practice and regulatory requirements that have changed.

What's new?	What do chambers need to do?
Recommendation: Prohibition of relationships with pupils and consideration of other intimate relationships in chambers	Amend your anti-harassment policy, any code of conduct and your constitution
Recommendation: Processes for work experience and mini-pupillages	Update your approach to informal work experience and mini-pupillages by introducing a registration system and ensure safeguarding guidance is given to members and staff
Recommendation: Agreed definitions for bullying, harassment, sexual harassment and reasonableness test for bullying	Update your anti-harassment policy and approach to these issues
Recommendation: Clauses and sanctions for your constitution	Update your constitution
Regulatory requirement: Reporting options for serious misconduct associated with bullying, harassment or sexual harassment to the Commissioner for Conduct via Talk to Spot	Update your anti-harassment policy and approach to these issues
Regulatory requirement: Recognition of new 'confidant' role	Update your complaints handling and reporting processes
Recommendation: Processes for complaints handling (based on ACAS processes)	Review and update your complaints handling processes
Regulatory requirement: Limitations on use of NDAs	Ensure compliance with new government rules
Recommendation: Approach to training what must be covered in anti-harassment and bullying training	Consider mandatory training and check your training covers all content required
Recommendation: Codes of Conduct	Consider working with members to develop an agreed Code of Conduct for chambers

Overview

This overview provides important context and links to available resources for work in this area.

It includes:

- Why we must take action on bullying, harassment and sexual harassment
- Understanding a victims perspective
- Making sure everyone knows how and where to complain
- Understand and promote Talk to Spot
- Changing the culture
- Training is key
- Creating effective bystanders
- Changing the culture
- Responding when behaviour is challenged

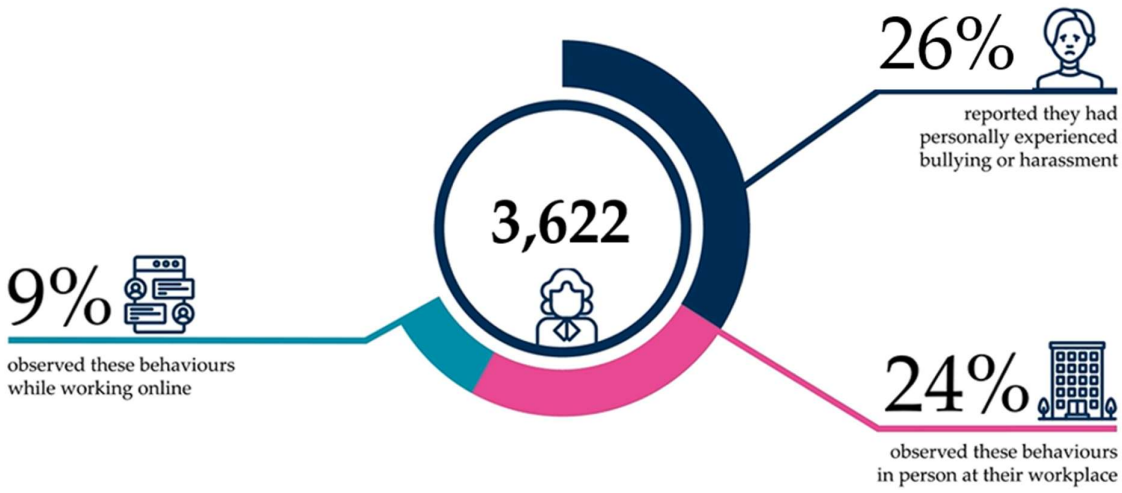
Overview

Why we must take action on bullying, harassment and sexual harassment

Bullying, harassment and sexual harassment remain persistent and well-evidenced challenges for the Bar. The findings of **Baroness Harriet Harman KC's independent review were a watershed** moment, bringing into sharp focus the prevalence of inappropriate behaviours, the barriers to reporting, and the structural features of the profession that can allow harm to go unchallenged. The review made clear that bullying and harassment is not an occasional isolated incident, but is a systemic issue requiring collective responsibility and sustained action.

Bar Council research[1] continues to show that a significant number of barristers experience bullying, harassment and discrimination in the course of their work. Under-reporting means that the true scale of the issue is likely to be greater than the data suggests.

In our most recent survey[2], around a quarter of respondents reported that they had experienced bullying and harassment at work in person. Surveys amongst chambers' employees reveal similar findings.[3]



[1] The Bar Council Barristers' Working Lives 2023 survey found 44% of respondents said they had experienced or observed inappropriate behaviour while working over the last two years. This was an increase from 38% in 2021 and 31% in 2017.

[2] Bar Council, Barristers' Working Lives survey, 2025 **www.barcouncil.org.uk/support-for-barristers/barristers-working-lives.html**

[3], LPMA/IBC, Workplace Culture Report, December 2023 **lpma.org.uk/news/lpma-ibc-workplace-culture-report**

The data also highlights significant inequalities. Experience of these issues is not evenly distributed across the profession: women, junior barristers and those from ethnic minority backgrounds are disproportionately affected. For example, nearly half (48%) of female barristers from Black and ethnic minority backgrounds reported experience of bullying or harassment, compared with 38% of White female barristers, 20% of male barristers from ethnic minority backgrounds, and 13% of White male barristers.

The Bar's distinctive structure – characterised by a majority self-employment, reliance on informal networks, and the central role of clerking in work allocation – can intensify these challenges. Power imbalances, dependency on reputation, and close professional relationships may discourage individuals from speaking up or seeking redress. Without clearly understood, trusted pathways for raising concerns and consistent standards of behaviour, there is a risk that harmful conduct is normalised or overlooked.

There is also a regulatory and legal imperative to act. The Bar Standards Board (BSB) requires barristers to act with integrity, maintain public trust and confidence, and not to discriminate or harass (Core Duties 3, 5 and 8). Obligations under the Equality Act 2010, alongside evolving expectations reflected in the Employment Rights Act 2025 and wider workplace protections, underscore the need for robust preventive and responsive measures.

Understanding a victim's perspective

The overwhelming reason barristers and their staff fail to report bullying or harassment is the fear of repercussions for everyone involved, not just the person who experienced the behaviour. Victims fear being seen as a troublemaker and that their career will be adversely affected. They may believe their concerns will not be dealt with appropriately or taken seriously. Sometimes they don't know who to turn to or may have a concern the perpetrator (often senior to them) is likely to have a close relationship with the (other senior) person to whom their concerns should be brought. Others may not want to cause a fuss, may not want to harm the career of the person responsible, or harm their clients (for example a complaint about a judge might impact their access to justice).

Communications, anti-harassment policies, and complaints handling processes all need to be informed by these concerns and must provide confidence to complainants that their report will be taken seriously and handled sensitively.

Making sure everyone knows how and where to complain

Ensuring that everyone in chambers knows how to raise a concern is a critical part of creating a safe working environment. You should set out straightforward, step-by-step pathways for raising both informal concerns and formal complaints, and have a list of trained, nominated people, from all levels, who are available to hear and deal with complaints. This information, along with your policies, should be consistently signposted – through induction, internal handbooks, noticeboards, shared platforms and regular reminders – as well as tailored for different groups, including pupils, mini-pupils, junior tenants, clerks and staff. Individuals should know who they can speak to, what will happen next, and what support is available at each stage.

Clear, consistent communication is essential to ensure that your policies on bullying, harassment and sexual harassment are understood, trusted and used in practice. Your communication should be tailored to reflect the realities of the Bar, using practical scenarios and plain language rather than relying solely on formal policy documents.

Because people may be hesitant to come forward, you should provide multiple, flexible routes for raising issues. This includes ensuring everyone is aware of the support available from the Bar Council and Commissioner for Conduct, and our tool that allows individuals to record concerns before taking action, Talk to Spot. You should provide clear reassurance about confidentiality, protection from victimisation, and the ability to seek advice without triggering a formal process. By making pathways visible, understandable and trusted, you can remove barriers to speaking up and ensure that concerns are raised and addressed at an early stage.

Understand and promote Talk to Spot

Download our Talk to Spot poster and display it in your chambers

Talk to Spot is an online platform which enables recording and reporting (including anonymously) of bullying, harassment, and inappropriate behaviours at the Bar to the Commissioner for Conduct.

How does Talk to Spot work?

Step 1: You make a record or report via Talk to Spot

You can save a record of the incident on the system or you can submit your report to the Commissioner for Conduct team.

Step 2: The Commissioner's team triages the record

We read it, work out the issues and possible next steps.

Step 3: We explore your options with you

We may ask you to talk to us further about your report. If you made an anonymous report, we can contact you via Talk to Spot without knowing your identity. We explore what support and assistance you want from us and outline the options for action.

Step 4: We jointly agree a way forward – nothing is done without your agreement. You may decide not to take the issue any further or we can support you to raise a concern in chambers, your Inn, specialist Bar association or other. Alternatively, we can raise a concern on your behalf, or we can refer to the BSB (if you wish and agree). Action is always led by you (the reporter) and we don't do anything without your agreement.

What the Commissioner will consider when advising on action:

- Your wishes
- The type and severity of the behaviour
- The role or position of the perpetrator (as this may determine what the relevant regulator or responsible body is)

Changing the culture

Taking action is not just about compliance, but also culture. If we don't effectively address bullying and harassment, we risk undermining our values and deterring talented individuals from entering or remaining at the Bar. Not only this but we also risk eroding public confidence in the profession. Creating a safe, inclusive and respectful working environment strengthens the quality of our advocacy, supports wellbeing, and ensures that the Bar continues to attract and retain the widest and best pool of talent.

Changing the culture at the Bar requires sustained, visible action. As highlighted by Baroness Harman's review, change will not come from policies alone. It depends on shifting what is expected, what is tolerated, and what is consistently reinforced in everyday practice. There is also a clear regulatory dimension: the Bar Standards Board has emphasised the importance of professional conduct in this area, and the Bar Council's appointment of the Commissioner for Conduct signals a strengthened focus on how concerns are handled, and on transparency, consistency and accountability across the profession.

A critical foundation is leadership and role modelling. Heads of chambers, senior barristers and employees set the tone for acceptable behaviour and must clearly communicate that bullying and harassment are incompatible with professional standards. This must be demonstrated in practice – through addressing inappropriate behaviour early, supporting those who raise concerns, and ensuring that status or seniority does not shield individuals from scrutiny. Clear standards of behaviour should be articulated through codes of conduct and embedded in everyday working practices.

Responding when behaviour is challenged

An important aspect of an inclusive culture is how someone responds when their behaviour is challenged. Being challenged can feel uncomfortable, but it is an opportunity to reflect and address the impact your behaviour may have had, however inadvertently. Everyone working in chambers should be encouraged to approach such situations with openness – listening carefully, avoiding defensiveness, and seeking to understand the concern raised. Acknowledging another person's experience, and where appropriate taking responsibility or making changes to your own behaviour, helps de-escalate issues and build trust. Where

concerns cannot be resolved informally, individuals should be encouraged to engage constructively with chambers processes and seek support where needed.
Over time, and with sufficient sustained effort, we can shift the culture from one where issues are minimised or unreported to one where professionalism, respect and accountability are consistently upheld. Training and ongoing dialogue about these issues will support this shift in culture.

Training is key

Culture change depends on empowering individuals and shaping everyday behaviours. Training should focus on practical skills, including recognising problematic conduct, intervening safely as a bystander, and giving and receiving feedback. Encouraging early, informal challenge helps prevent escalation and signals that lower-level behaviours will not be ignored. At the same time, facilitating open discussion about working practices and power dynamics can help ensure that expectations are shared and understood, rather than assumed.
Your anti-harassment policy should include details about how often members and employees are expected to take part in training, and what that should be included in that training.

Find out more about **our training courses**

Creating effective bystanders

Bystanders play a crucial role in shaping culture at the Bar. Much of the behaviour that contributes to bullying, harassment and sexual harassment takes place at shared professional spaces – chambers, court, events and conferences – and is witnessed by others. How those witnesses respond can either reinforce or challenge what is seen as acceptable. Silence, even when unintentional, can be experienced as tacit approval, making it harder for individuals to speak up and more likely that problematic behaviour will continue. By contrast, even small acts – such as checking in with a colleague, redirecting a conversation, or calmly challenging a remark – can signal that standards matter and that individuals are not alone. This has a positive impact not only on the person affected, but also on the wider working environment, helping to build trust, confidence and a shared sense of responsibility.

Effective bystander intervention does not require confrontation in every situation; it requires judgement, awareness and a willingness to act in a way that is safe and proportionate. At the Bar, this might mean addressing behaviour directly where

appropriate, creating a distraction to de-escalate a situation, seeking support from a more senior colleague or clerk, or following up afterwards to offer support and encourage reporting. The key is that individuals recognise their ability to make a difference and feel equipped to do so. By empowering barristers, clerks and staff to intervene in practical and realistic ways, chambers can foster an environment in which inappropriate behaviour is more likely to be challenged early, reducing harm and contributing to a more respectful and professional culture overall.

Download our Talk to Spot poster and display it in your chambers



Definitions

In this section we provide agreed definitions of the below list, and an explanation of the reasonableness test. You are encouraged to use these definitions in policy, investigations and communications work.

- **Inappropriate behaviours and incivility**
- **Bullying**
- **Harassment**
- **Sexual harassment**
- **The reasonableness test**

Inappropriate behaviours and incivility

Inappropriate behaviour or incivility is any disrespectful, rude, or discourteous behaviour that violates workplace norms of mutual respect regardless of whether the intent is malicious. It encompasses both overt and subtle actions, such as yelling, eyerolling, gossiping, or withholding information. Although lower in intensity than bullying, inappropriate behaviour or incivility can impact on wellbeing and morale, decrease confidence and productivity, and foster a toxic environment if left unaddressed.

Examples of inappropriate behaviour include:

- Interrupting others in meetings
- Giving the silent treatment
- Refusing to answer questions
- Using demeaning language
- Sending unpleasant emails
- Belittling comments
- Excluding people from professional camaraderie
- Leaving someone off an email
- Not inviting them to social events
- Failing to pay attention during a discussion
- Gossiping
- Spreading rumours
- Undermining someone's work

Many of the examples above can also be experienced as bullying or harassment, depending on the context, power dynamics, frequency and intensity of the behaviours or experience.

Bullying

While bullying isn't defined in workplace legislation, **ACAS** defines it as unwanted behaviour from a person or group that is either:

- Offensive, intimidating, malicious or insulting

- An abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone

Bullying might:

- Be a regular pattern of behaviour or a one-off incident
- Happen face-to-face, on social media, in emails or calls
- Happen at work or in other work-related situations
- Not always be obvious or noticed by others

It's possible someone might not know their behaviour is bullying – but it can still constitute bullying even if they don't realise it or didn't intend to bully someone. Examples of bullying at work include:

- Constantly criticising someone's work
- Overbearing or intimidating levels of supervision
- Spreading malicious rumours about someone
- Constantly putting someone down in meetings
- Deliberately giving someone a heavier workload than everyone else
- Deliberately or repeatedly excluding someone from social events
- Putting humiliating, offensive or threatening comments or photos on social media

Harassment

Under the **Equality Act 2010**, and in BSB regulation, harassment is defined as: "unwanted conduct related to a relevant protected characteristic, 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". Examples of harassment include:

- Racist, sexist, homophobic, transphobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group, religion or belief, or gender
- Disclosing or threatening to disclose someone's sexual orientation or gender identity against the person's wishes

- Maliciously misgendering someone
- Offensive emails, text messages or social media content
- Mocking, mimicking or belittling a person's disability (past, present, or perceived)
- Exclusion from social networking and activities or other forms of isolation
- Physical assault

Sexual harassment

Under the **Equality Act 2010**, sexual harassment is unwanted or unwelcome behaviour of a sexual nature which violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for someone. It can be sexual harassment if the behaviour has one of these effects even if it was not intended, or was intended to have one of these effects, even if it did not have that effect.

Examples of sexual harassment include:

- Unwelcome sexual advances
- Unwanted or intrusive physical conduct, including touching, pinching, pushing, grabbing and invading personal space
- Making sexual jokes, suggestive gestures or remarks
- Asking intrusive questions about a person's private or sex life or a person discussing their own sex life
- Spreading rumours of a sexual nature about a person
- Making promises in return for sexual favours
- Unwanted or derogatory comments about a person's clothing, physical attributes, or appearance
- Sending or displaying or showing pornographic photographs, inappropriate images, or inappropriate drawings
- Sending emails, text messages, or other instant messages with material or content of a sexual nature
- Unwanted social invitations for dates or physical intimacy

In fact, anything related to sex in the workplace could amount to sexual harassment. What some people might consider as joking, 'banter' or part of their workplace culture can still be sexual harassment.

Sexual harassment is usually directed at an individual, but it's not always the case. Sometimes there can be a culture of behaviour that's not specifically aimed at one person – such as sharing sexual images. Someone could still make a complaint of sexual harassment in this situation.

What may appear, superficially, to have been innocuous conduct by one person, might from the perspective of the other person, be more serious. This is particularly likely if, for example, the affected person is more junior, or in some other way vulnerable. Equally, the fact that an individual has a long-standing reputation for making jokes or comments ("oh that's just so-and-so, they're harmless") doesn't mean that their conduct should be excused or overlooked.

> The Equality Act doesn't require a course of conduct to meet the threshold of harassment or sexual harassment. It's not the same test as the criminal code.

The reasonableness test

Under the Equality Act 2010 (section 26), harassment is defined using both a subjective and an objective test. This ensures that the law considers the affected individual's personal experience **and** whether the behaviour is reasonably seen as offensive.

1. Subjective test (the affected individual's perspective)
The subjective test focuses on how the affected individual personally experienced the conduct. Did they feel that their dignity was violated? Did they perceive the environment as hostile or offensive? Even if others might not be offended, the affected individual's own perception matters.

2. Objective test (reasonableness standard)
An objective test asks whether it is reasonable for the conduct to have that effect. To do this it is necessary to consider the perception of the affected individual, the other circumstances and context, and whether it is reasonable for the conduct to have that effect. This prevents complaints based solely on overly sensitive reactions.

The two elements have to be applied together – the affected individual must feel harassed (subjective), and that feeling must be objectively reasonable in the circumstances.

This test can be applied to complaints of bullying, as well as harassment and sexual harassment.

It is important to note that behaviours which meet the definitions of bullying, harassment or sexual harassment set out above may not meet the threshold of serious misconduct for regulatory action.

Law and regulation

In this section we provide an overview of relevant law and regulations against which your work in this area should be considered.

- Law
  - Equality Act 2010
  - Third party harassment
  - Other relevant legislation
  - Positive duty to prevent sexual harassment
  - Enforcement and consequences
  - Sexual harassment risk assessment
  - How to complete the prevent sexual harassment checklist
  - Victimisation
  - Whistleblowing
  - Non-disclosure agreements (NDAs)
- Regulation
  - BSB handbook and code of conduct
  - Authorisation Framework
  - Bar Qualification Manual
  - Duty to report serious misconduct
  - Non-professional conduct

Law

Equality Act 2010

The Equality Act 2010 (Section 26) makes three types of harassment unlawful. These are:

- Harassment related to a 'relevant protected characteristic'
- Sexual harassment
- Less favourable treatment of a worker because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment

The 'relevant protected characteristics' are:

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sex
- Sexual orientation

Unlike other forms of discrimination, pregnancy and maternity and marriage and civil partnership aren't protected under the harassment provisions. However, harassing someone because they were pregnant or had recently had a baby, would be harassment related to sex.

The Equality Act protects employees and other workers from harassment and sexual harassment. However, as well as staff, this statutory protection includes members of chambers, pupils, mini-pupils and those undertaking work experience by virtue of their being specifically identified in section 47 of the Equality Act 2010. [4]

[4] Equality and Human Rights Commission, Sexual harassment and harassment at work: technical guidance, September 2024 **www.equalityhumanrights.com/guidance/sexual-harassment-and-harassment-work-technical-guidance#whoisprotectedagainstharassmentandvictimisation**

It's unlawful for an employer, or anyone working for them to harass a worker, or anyone who has applied to them for employment. Barristers are liable under **Section 47 of the Equality Act** if they harass another member, pupil or applicant. Barristers are also responsible for their clerks' actions as the clerks are the agents of the barristers.

It's also unlawful if an employer fails to take reasonable steps to prevent sexual harassment of workers.

Third party harassment

Your chambers – as an employer and in relation to your members – may be held liable for acts of harassment by third parties. Third-party harassment refers to harassment based on age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation, by someone who is not an employee in your organisation but interacts with your employees.
For chambers, this includes but is not limited to:

- Self-employed members of chambers
- Solicitors instructing counsel
- Lay clients
- Opposing counsel
- Judges or tribunal members
- Court staff or clerks

Other third parties might include contractors or freelancers, students, friends and family of colleagues. Sections 40(1A) to (1C) Equality Act 2010[5] introduce a new cause of action for employees to bring a claim against their employer in the employment tribunal where they have been harassed by a third party in the course of their employment, and where the employer failed to take all reasonable steps to prevent the third party from doing so.

[5] https://www.legislation.gov.uk/ukpga/2025/36/part/1/crossheading/protection-from-harassment-and-discrimination

Scenario

Your clerk experiences sexist or racist remarks from a client or instructing solicitor. Under the new rules, this is not just an individual issue – it creates a responsibility for you. You cannot say "it was the client" and do nothing, there is an expectation of anticipation, prevention, and response.

Scenario

A solicitor puts their arm around a member of staff at your chambers' event. The member of staff immediately complains to the Head of Chambers, who sympathises and takes some steps to distract the solicitor who is an important client. Later that evening the solicitor grabs the member of staff and forces them into a hug. In this example the Head of Chambers should have taken all reasonable steps to mitigate the first incident of sexual harassment and to prevent the second incident of sexual harassment. They should have ensured the member of staff was safe and that the solicitor was aware their behaviour was unacceptable.

Members and employees may be considered third parties in relation to other employers who have a duty to prevent harassment. For example, as a supplier to a firm of solicitors, chambers may be asked to demonstrate the steps they have taken to prevent harassment by their members and employees.

Scenario

If a member of chambers is accused of sexual harassment of an employee of a firm of solicitors, the firm (as the employer) would need to show they had taken all reasonable steps to prevent the harassment from happening. They should also take action on the complaints and improve their practices to prevent harassment from happening again. This may include placing an expectation on chambers that they deal with the complaint effectively and proportionately and possibly making a report to the BSB to investigate the matter.

Positive duty to prevent harassment

In October 2026 the law was strengthened. All workplaces, including chambers, have a positive duty to take '**all** reasonable steps' –to prevent sexual harassment and harassment by third parties[6].

The preventive duty is an anticipatory duty. It is designed to transform workplace culture by requiring employers to take positive and proactive reasonable steps to be taken to prevent harassment. This means not waiting until a complaint of harassment has been made before taking action. The duty requires that you anticipate scenarios where harassment is likely to happen and take action to prevent it. In practice this means you should:

- Assess risks
- Put preventive policies and procedures in place
- Act on complaints

Are members covered by the preventive duty?

There is currently no settled position as to whether members and pupils are covered by the duty to prevent harassment, we believe it is good practice to include everybody working in and around chambers in measures to prevent harassment. This guidance is based on good practice, and we have therefore included steps to prevent the harassment of barristers and pupils as well as employees.

Enforcement and consequences

The Equality and Human Rights Commission (EHRC) has enforcement powers. In parallel, the BSB may also view your failure to respond adequately as a breach of duties around equality, diversity, and integrity.

If you fail to take reasonable steps:

- You may face regulatory investigation
- It may be used as evidence in any employment tribunal claims
- You face a reputational risk

[6] https://www.acas.org.uk/employment-rights-act-2025/harassment-law-changes

Claims for breach of the duty can be considered by a tribunal where a claim for sexual harassment or harassment by a third party has been upheld. If a sexual harassment claim succeeds, and the tribunal finds that the duty has been breached, a 25% uplift on compensation can be awarded. The **Equality and Human Rights Commission** (EHRC) can also use its powers including reaching binding agreements with employers, commencing investigations and issuing unlawful act notices. The steps a chambers can reasonably take in respect of third parties (eg clients or visitors to chambers) will be more limited than in respect of their employees, because of the completely different extent of control, and chambers will not be penalised for failing to take unworkable or impractical steps.

There are a number of steps you should take to demonstrate compliance with the preventive duty:

Ensuring anti-harassment policies are up to date, including:

- Having the correct contact information
- Being easily accessible and highlighted to new starters and external contractors during induction
- Containing information about third party harassment

Training members and employees – which should include information about:

- How to identify harassment
- How to intervene and be an effective bystander
- How to report and address incidents of harassment (including anonymously)

Ensuring there is a clear process for reporting incidents of harassment which includes:

- Formal, informal and anonymous reporting eg via Talk to Spot
- A commitment to fully investigate and resolve all reports
- Keeping a clear paper trail of the steps that have been taken

Safeguards and protections for those who raise concerns:

- Signposting to more support eg the Bar's Assistance Programme
- Protection from victimisation

Creating open channels of communication

- Nurturing a culture where issues are pro-actively identified

Ensuring everyone is empowered to raise concerns

Undertaking risk assessments

- Identify areas or activities of high risk
- Put in place actions to mitigate risks
- Ensure the risk assessments are regularly re-visited to respond to evolving risks and information

Demonstrate no tolerance of harassment

- Communicate regularly to show it is a priority
- Be seen to take action against inappropriate behaviours
- Don't tolerate cultures or environments which increase the risk of harassment

Harassment risk assessment

It is important that a risk assessment is in place in every workplace. This should be a live document, updated with new information as it emerges. This document enables chambers to identify risks and the extent to which they may increase the likelihood of harassment.

We know from research that there are some people who are more likely to experience or witness harassment and sexual harassment while working in and around the Bar. We also know that any institution that doesn't take harassment risk assessment seriously increases the risk of harassment occurring.

When completing an audit to comply with the duty to prevent harassment consider three key risk factors:

People: Different groups are more likely to experience harassment. Those most at risk include younger women, disabled women, Black and ethnic minority people, and members of the LGBT community. Those who are on temporary contracts such as pupils and probationary tenants, and mini-pupils or those on work experience are also at risk.

Place: Members and staff are at greater risk of harassment in certain places, for example, working alone with a third party (such as a client), working late at night, or working at events where alcohol is served. Your colleagues may be at risk both inside and outside chambers eg at court, working away from home etc.

Process: Are policies and processes up to date, and does everyone know how to access them?

How to complete the prevent harassment checklist

Follow these 5 steps to compete your checklist:

- **Examine the workplace** to identify what factors could put people at risk. For example, think about the times people work late at night, away from home, alone or alone with a client or external provider, and if alcohol is likely to be consumed.
- **Think about power structures** (abuse of power can be a cause of harassment). For example, consider the complex dynamics between senior and junior members, between senior clerks and junior members, between staff and members, between senior and junior employees, between members and professional or lay clients and between members and employees and pupils.

Pupils are in a particularly vulnerable position, as they are reliant on work and references from members and clients, and their future in chambers depends on being invited to take tenancy**.**

- **Assess the chances of harassment happening**. This assessment can be based on prior experiences within chambers and what you know about things which have happened in other chambers and at the Bar. Take care not to assume that harassment or sexual harassment doesn't happen just because you haven't had any reports in chambers. We know that harassment is under reported, and there is work to do to increase confidence in reporting. A survey or informal consultation to better understand the experiences of members and employees may help inform you, including by identifying key risks and those most at risk.

Scenario

A head of chambers concluded there was very low risk of sexual harassment as he and other members of the management committee hadn't experienced it recently and there hadn't been any reports in the last 5 years. A female colleague pointed out

that although she hadn't been harassed recently, it had occurred frequently in her early career, an experience shared by many of her female colleagues. She concluded that although it was no longer a significant risk for her, the risk remained for her junior colleagues and things hadn't changed as much as she would like to think.

- **Think about how to mitigate the risks**. Once you know what the risks are and the likelihood of harm, there are things you can do to reduce the risks. Possible mitigating action might include:
  - Training to ensure everybody knows what is expected of them, how to raise an issue and signal that chambers is taking its responsibilities seriously. As members could be a third party in a harassment claim, chambers are strongly encouraged to mandate anti-harassment training.
  - Making it clear that harassment is unlawful and will not be tolerated, for example by placing posters and information around chambers about your approach and encouraging bystander intervention.
  - Encouraging employees to report any acts of harassment (including third party harassment) and explain how to do so to enable you to support the employee and take appropriate action.
  - Inclusion of a term in all contracts with third parties notifying them of the employer's policy on harassment and requiring them to adhere to it.
  - A system to ensure those at increased risk are looked after at events or when they might be unsafe. Making sure someone isn't left on their own late at night or with a client can prevent a problem arising.
  - Taking swift action when an issue is brought to your attention. This may be an informal action like keeping an eye on a known perpetrator or deciding not to include someone on an invite list if you know they are a potential risk.
- **Implement the prevention or mitigating measure(s), log your actions and regularly review.** Put in place a mechanism for monitoring incidents and improving your practices. Speak to members and employees about their experiences, be curious about how people are getting on and don't wait for a formal report before taking further action.

The risk assessment should be completed by a senior member of staff, alongside the EDO and Head of Chambers and it should be reviewed regularly by the relevant chambers' committee (Equality and Diversity or Management).

Explore our harassment risk assessment for chambers template.

Other relevant legislation

Sometimes conduct that appears to amount to unlawful harassment under the Equality Act may also, or instead, be unlawful for other reasons eg if it amounts to a criminal assault; if it is connected to a protected disclosure; or if it amounts to harassment under the **Protection from Harassment Act 1997** (sections 1 to 7).

Victimisation

Victimisation means treating someone badly (subjecting them to a detriment) because they have done a protected act – for example making a complaint of harassment.

Victimisation also means subjecting someone to a detriment because it is believed they have done or are going to do a protected act. They don't actually need to have done the protected act.

Doing a protected act means:

- Making a claim or complaint under the Act (for example, for discrimination or harassment)
- Helping someone else to make a claim by giving evidence or information
- Making an allegation that someone has breached the Act
- Doing anything else in connection with the Act

This protection will apply to anyone making a claim or allegation that the Act has been breached or assisting someone (like a colleague) in doing so. It is irrelevant whether the Act was breached or not, as long as the person doing the protected act genuinely believes that the information or evidence they are giving is true.

Whistleblowing

Section 23 of the **Employment Rights Act 2025 (ERA2025)** extends whistleblowing protections to employees in all cases of sexual harassment. This makes complaints of

sexual harassment a 'protected disclosure', protecting employees from dismissal and detriment (eg being sidelined, denied promotion, or treated badly) as a consequence of making a complaint.

Whistleblowing protection can cover employees and workers and applies from day one of employment.

It is hoped that this shift will encourage people to speak up earlier, frame harassment as a workplace governance issue, not just interpersonal conflict, and put pressure on organisations to address systemic problems.

Non-disclosure agreements (NDAs)

The regulation of NDAs in harassment cases has tightened significantly in the last few years. **Se24 of ERA2025** will make it unlawful to prevent a worker from speaking out about relevant discrimination or harassment, subject to further regulations. Likely to come into force in 2027, this law will render void any provision within an agreement made between an employer and a worker that seeks to prevent the worker from speaking out about 'relevant harassment or discrimination' or their employer's response to the relevant harassment or discrimination, or the making of an allegation of relevant harassment and discrimination. The core principle of the rules is that NDAs cannot silence reporting or disclosure of wrongdoing. This means they can't be used to prevent someone from reporting harassment or discussing it in appropriate contexts.

This doesn't mean they can't be used in settlement agreements, which can still be include clauses:

- Protecting confidential business information
- Keeping the financial terms of a settlement confidential
- Preventing disclosure of private personal information (with care)

But critically, NDAs cannot:

- Prevent someone from describing their experience of harassment in general terms
- Prevent a report being made to a regulator or avert subsequent action

- Be used to manage reputational risk at the expense of complainants Stop someone seeking support (eg legal, medical, therapeutic)
- Create a chilling effect through overly broad or vague wording

The new rules relating to NDAs will only apply in the context of chambers as an employer and chambers' employees. It would not extend to the use of NDAs where the complainant is a member or pupil. However, Baroness Harman's review called for "the use of non-disclosure agreements to deal with bullying, harassment or sexual harassment [to] be prohibited in chambers' constitutions and it should be misconduct to sign such an agreement on behalf of chambers".[7]

A template clause which can be added to chambers' constitutions prohibiting the use of NDAs to cover up bullying, harassment or sexual harassment has been included in the **constitutions template**. Adding this clause will ensure chambers are compliant with this review recommendation.

The Equality and Human Rights commission has published helpful guidance on the use of confidentiality agreements.

Regulatory requirement
Using an NDA to conceal wrongdoing or inhibit whistleblowing is likely to breach Core Duties CD3 (barristers must act with integrity) and CD5 (barristers must not diminish public trust in the profession). Improper use of NDAs – including attempting to prevent disclosure of information to the BSB or law enforcement – can lead to disciplinary action.

Regulation

BSB handbook and code of conduct

The BSB Handbook contains the Core Duties (CD1, CD2 etc), followed by 'Outcomes', Rules, and Guidance in relation to each Core Duty.

[7] Baroness Harriet Harman KC, Independent review of bullying, harassment and sexual harassment at the Bar, 2025, recommendation 7(b) **www.barcouncil.org.uk/resource/independent-review-bullying-harassment-sexual-harassment-report.html**

Core Duties

CD3 You must act with honesty and integrity.

CD5 You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession. Discrimination in the provision of services is a matter of professional misconduct to the extent that it is not otherwise unlawful.

CD8 You must not discriminate unlawfully against any person (this includes harassment and victimisation).

Conduct Rules

rC12 You must not discriminate unlawfully against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief, or pregnancy and maternity.

The BSB's Handbook Equality Rules (rC110-112) sets further expectations on those who are regulated. In relation to harassment, BSB Rules require chambers have an anti-harassment policy which, at a minimum, states that:

- Harassment will not be tolerated or condoned
- Managers, employees, members of chambers, pupils, and others temporarily in chambers or an BSB authorised body, such as mini-pupils, have a right to complain if it occurs
- Sets out the procedure for dealing with complaints of harassment, and there should be a plan for communicating the policy (rC111.3.j)

Explore the BSB's **Equality and Diversity Regulations**

Members of chambers responsibilities

In relation to Rule C110, if you are a Head of Chambers or a Head of Legal Practice you must ensure that you have the policies required by Rule C110, that an equality and diversity officer is appointed to monitor compliance, and that any breaches are appropriately punished.

If you are a member of a chambers you are expected to use the means available to you under your constitution to take reasonable steps to ensure there are policies and that they are enforced.

If you are a manager of a BSB authorised body, you are expected to take reasonable steps to ensure that there are policies and that they are enforced.

Authorisation Framework

The Authorisation Framework sets out the standards that organisations must meet in order to provide education and training for the Bar. This includes those offering pupillage and work-based training.

Authorisation Framework

37.6 —Provision and maintenance of learning environments (whether physical, virtual or social) that are supportive, safe and accessible for every pupil or student, promoting dignity, courtesy and respect in their use.

46.8 Provision of appeals, complaints, and, where appropriate, grievance policies and procedures must be in place.

46.10 Opportunities should be in place for students and pupils to give feedback to the AETO about their experience of training at the AETO in order to shape their and others' learning experience.

Bar Qualification Manual

Chambers as AETOs must also consider the **Bar Qualification Manual part 4D** which sets out required content on policies in the Pupillage Agreements. These should include reference to:

- A written complaints and grievances policy which (i) states that pupils have a right to complain and (ii) sets out the procedure for dealing with complaints and grievances (Authorisation Framework).
- A written anti-harassment policy which (i) states harassment will not be tolerated or condoned, and that pupils have a right to complain if it occurs and (ii) sets out the procedure for dealing with complaints of harassment.

Duty to report serious misconduct

Barristers also have a duty to report their own serious misconduct (rC65), and serious misconduct by others (rC66 – rC68).

Under an agreed **protocol** with the Bar Council, barristers can report serious misconduct to the BSB **or in relation to bullying, harassment or sexual harassment**

only – the Bar Council Commissioner for Conduct team. If a report is made to the Commissioner for Conduct which is considered to reach the threshold for regulatory action, the Commissioner may then refer it to the BSB for regulatory action.
The BSB will not take regulatory action against the subject of misconduct or someone they confided in (a 'confidant') for emotional or pastoral support or guidance, if they don't report the conduct to the BSB or Commissioner for Conduct.
There is also a specific duty on heads of chambers to report harassment, but this should not detract from an individual's own duty. When a barrister makes any allegation of harassment, a decision must be made as to whether it is to be reported or not. If you are aware that the matter has already been reported then you do not need to report it yourself.

The BSB Guidance identifies examples of what the BSB regards as **serious misconduct** .

Reporting the serious misconduct of others
rC66 Subject to your duty to keep the affairs of each client confidential and subject to 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 registered European lawyer.
gC96 Serious misconduct includes (without being limited to) assault or harassment (CD3 and/or CD5 and/or CD8).
gC96.2 It may also include serious instances of bullying (persistent, unwanted behaviour from a person or group that is either intimidating, malicious or insulting, or an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone).
Where alleged serious misconduct relates to bullying, harassment or sexual harassment:
•. The duty to report this type of serious misconduct may be satisfied by reporting either to the BSB or to the Bar Council's Commissioner for Conduct.
•. Given the importance of identifying and responding to this type of misconduct, the BSB recommends making such a report where there is a reasonable suspicion that it occurred.
•. The BSB will not take enforcement action against you if you have been the subject of this type of misconduct and you do not report it. The same shall apply in relation to individuals whom the subject has acknowledged as a confidant. For the purposes

of the BSB Guidance, a confidant is someone in whom a person confides for the purpose of seeking emotional or pastoral support or guidance in response to bullying, harassment or sexual harassment.

The BSB Guidance notes that whether misconduct is 'serious' may be a question of degree and is a matter of judgement, and notes that discrimination, which includes harassment, can constitute serious misconduct depending on its severity and impact. This means that there may be instances of inappropriate conduct at the lesser end of the spectrum which do not mandate a report. The criteria for assessing if misconduct reaches the threshold of 'serious' includes:

- The intent and motivation of the alleged perpetrator
- The harm to, and impact on, the complainant, others working with the Bar, or the wider public
- Whether the misconduct was sexual, predatory, violent, or discriminatory in nature
- The vulnerability of the complainant or any other affected parties
- The role, experience and seniority of the accused individual and whether there was a potential abuse of power
- Whether the alleged misconduct formed part of a pattern of behaviour
- The risk that the misconduct will continue or be repeated
- Relevant remediation or personal mitigation such as expressions of apology, remorse, or cooperation with any investigations

The BSB Guidance indicates that the alleged perpetrator should usually be given an opportunity to explain their conduct before a report is made and that a report should be made "where you have material before you which as it stands establishes a credible case of serious misconduct."

Bar Council recommends that, where the allegation amounts to serious misconduct and is admitted, then it should normally be reported as soon as possible. However, in practice, it can be helpful to discuss this with the complainant – hopefully to gain their consent – but at least to ensure they are aware that the report is being made. Where the allegation is denied, and an internal investigation is going to be carried out, Bar Council recommends the decision of whether to report may await the outcome of the investigation since this is likely to shed further light on the allegation.

Even if the allegation is found to be not proven by chambers it may still be necessary to report the incident (depending on how serious the allegations are with reference to a) to h) above).

If in doubt, contact the Commissioner for Conduct's team for confidential and, if necessary, on an anonymised basis, where they can give advice as to whether further thought needs to be given to a referral to the BSB via email **commissioner@barcouncil.org.uk**.

Reporting to the Solicitors Regulation Authority (SRA)
Solicitors, like barristers, are not allowed to discriminate. Serious misconduct by solicitors should be **reported to the SRA**. However, barristers are under no duty (which has been imposed by the Law Society) to report solicitors' misconduct to the SRA.

Non-professional conduct

Most of the Core Duties and Rules only apply when a barrister is 'practising' or 'otherwise providing legal services'. The term 'practising' is broadly defined in the BSB Handbook. It means all activities, including the business-related activities, of a practising barrister. This means that chambers related events, for example, are likely to be treated as being part of a barrister's professional life, so conduct during such events engages all the Core Duties and Rules that apply to practising barristers. It is likely to also include, for example, a barrister's use of social media when it is unrelated to their work, or their conduct during personal litigation.

Read the Bar Standards Board guidance on the regulation of non-professional conduct

Chambers policies

In this section we cover advice on developing and drafting policy (including what should be covered in different policies). We propose reference to anti-bullying and harassment training is made either in your anti-harassment policy or a separate training policy.
Links to template policies are provided (copies of these can also be found in the templates section of this toolkit).
We include some tips and advice for those hosting aspiring barristers undertaking mini-pupillage or work experience.

- Anti-harassment policy
    - Appropriate adviser
    - Communicating the policy and training
    - Designing a policy
    - The workplace
    - Relationships
    - Handling complaints informally
    - Handling complaints formally
    - Appeals process
    - Complaints about people outside chambers
    - Complaints about the behaviour of judges
- Disciplinary and grievance policy for members
    - Support for everyone involved
    - More vulnerable complainants
    - Pupils
    - Mini-pupils, students and others
    - Employees
- Anti-harassment and bullying training for members and staff
- Chambers' constitution and employment policies
    - Model clauses for constitutions
- Code of conduct
    - Developing a code of conduct
- Work experience and mini-pupillage policies

Anti-harassment policy

The BSB Rules state that you must have an anti-harassment policy which, as a minimum, states that "harassment will not be tolerated or condoned and that managers, employees, members of chambers, pupils and others temporarily in chambers or any BSB authorised body, such as mini-pupils, have a right to complain if it occurs".

You must also set out how the policy will be communicated and the procedure to be followed (rC110.3.J.iii). The BSB Handbook also places a specific duty on heads of chambers to ensure there is a robust anti-harassment policy in place.

Where an allegation of harassment is made, it should be properly investigated, and appropriate action should be taken. BSB guidance[8] states that chambers' harassment policy should provide an informal means of resolving complaints about harassment in the first instance. There must also be a formal means of resolving complaints. The procedure for investigating complaints must be independent, objective, sensitive and fair.

Appropriate adviser

The BSB expects you to have a designated adviser in place to assist those subjected to harassment. In reality, most chambers have a list of designated people in this role as it is important that anyone in chambers who is harassed has someone that they feel comfortable speaking to.

Example

A senior male member of chambers may not be seen as approachable by a young female victim of sexual harassment and if they are the only person to whom such complaints can be made, the victim is likely to be deterred from coming forward.

In practice, it helps if your anti-harassment policy contains a list of people who can respond to complaints and provide advice to complainants, witnesses and respondents. These people should have a range of roles and come from all levels within your chambers. They should be trained in handling complaints, supporting complainants and the processes set out in your policy. You will be best placed to know who should be included as a designated duty holder in your own policy, but the list often includes:

[8] Bar Standards Board, Supporting information for chambers on the BSB Handbook Equality Rules, 2021 **www.barstandardsboard.org.uk/resources/supporting-information-for-chambers---bsb-handbook-equality-rules-pdf.html**

- Head of chambers
- Equality and diversity officer
- Members of the Equality and Diversity Committee or Management Committee
- Chambers director/chief executive
- Senior clerk
- HR adviser

Having a list doesn't preclude anyone else from supporting someone who's experienced bullying or harassment, but it does help people know who to go to for more help.

Communicating the policy and training

You must ensure that everyone knows what the policy says, what's expected of them and what to do if they have a concern or want to make a complaint. It's important that new starters in chambers – whether new tenants, pupils, mini-pupils, employees or contractors – are provided with a copy of your policy. You should also try to ensure they meet the person to whom reports of harassment should be made so that they are a familiar face should the worst happen.

Training for designated advisers and those responsible for implementing a policy or subsequent process is essential. A policy may be beautifully crafted but if implemented insensitively or without proper understanding, more harm than good can be done – victims will lose confidence and won't report harassment when it occurs, reputational damage may occur (both to chambers and those involved) and harassment will be able to continue unchecked.

Those in senior or supervisory roles should undergo training on how to keep the work environment free from harassment. Those involved in dealing with harassment, whether in an advisory role or responding to complaints role, should also be trained.

If you need help with training, the Bar Council offers training for those in management positions in chambers and those involved in the formulation and/or implementation of harassment policies.

Find out more about Bar Council training.

Designing a policy

The BSB and the Bar Council have created template policies to assist chambers. The BSB template[9] contains the basic clauses required, while the **Bar Council template** includes more detail which may be useful in operationalising the policy.

It is important that you carefully consider how the template policies can best be adapted to work in practice for your specific context. Consultation with key stakeholders – those who have been victims of harassment and those who will have responsibility for implementing the policy – is recommended.

It's helpful if your policy gives an indication of what behaviours may class as harassment under the policy. In particular, it is important that members of chambers understand that 'banter' can amount to harassment, and that just because a comment is intended as a joke does not mean it is not capable of constituting harassment.

It's also recommended that your policy encourages not just victims, but also witnesses of harassment, to both challenge and report it. If you or your members or employees hear from any source of inappropriate conduct, then steps should be taken to address it. A decision on taking action should not depend on whether the victim feels able to come forward to complain about what has happened. It is also important that this information forms part of your sexual harassment risk assessment.

In order to make your policy and procedures as effective as possible, keep your policy under review. At an appropriate moment ask those who have made use of the policy for their feedback: what do they think chambers got right, what do they think could have been done better. Use this to improve your policy and procedures.

Thank those who have come forward to report harassment, and anyone spoken to as witnesses; they are all likely to be worried about having spoken up and knowing that you appreciate their input will encourage them to speak up again in the future if necessary. Encourage them to 'spread the word' (while bearing in mind the need for confidentiality) that you can handle allegations of harassment effectively and appropriately, to encourage others to make use of your policy.

[9] Ibid, page 43

The workplace

For the purposes of anti-harassment policies, the scope of the 'workplace' is not restricted to a physical office or place. It covers any situation "in the course of employment" or work, which is interpreted broadly to include any location or interaction sufficiently connected to work. This means your policy has to cover activities taking place off-site, online, or outside of standard working hours if the participants are colleagues or in a work-related context.

Key areas or activities included in the scope of the workplace include:

- Physical offices and sites – including chambers' offices, meeting rooms, corridors, and communal areas
- Remote or virtual environments – working from home, online chats, emails, video calls (eg Zoom or Teams) and virtual meetings
- Courts, court premises and robing rooms
- Work-related social events – marketing activities, parties, outings or lunches, even if held off-site or outside business hours
- Work travel – transportation to and from work locations, overnight stays and travel arranged for work
- Client sites – meetings with clients, conferences, or off-site training sessions
- Digital and social media – LinkedIn, Facebook or WhatsApp, especially if it relates to work or the work environment

Relationships

Baroness Harman's review included a recommendation that members of chambers and employees should be proscribed within the policy from having sexual relationships with pupils, mini-pupils or students undertaking any type of work experience.[10] Baroness Harman recommends that you treat such relationships as serious misconduct. Although this isn't currently a regulatory requirement, a number of chambers have added this prohibition to their anti-harassment policy. If this is done, it should be communicated clearly to employees and members, as well as pupils and mini-pupils.

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[10] Baroness Harriet Harman KC, Independent review of bullying, harassment and sexual harassment at the Bar, 2025, recommendation 11 **www.barcouncil.org.uk/resource/independent-review-bullying-harassment-sexual-harassment-report.html**

A different approach should be considered for relationships between members and employees. People spend a lot of time with their colleagues, making it inevitable that some working relationships may turn into romantic ones. However, they can pose potential risks to the individuals involved and to chambers. Intimate relationships can result in favouritism or unfair treatment and, if relationships are conducted inappropriately or end badly, can have repercussions beyond the individuals involved. These risks are potentially greater if intimate relationships occur where there is a significant power imbalance due to position, seniority or age.
You may want to consider introducing a policy which requires intimate relationships between colleagues (members and employees, or members and members where a significant power imbalance exists) to be disclosed to the appropriate person in chambers (usually the most senior employee or head of chambers) where the individuals involved consider there is:

- A power imbalance (age and/or seniority)
- A risk of unfair work allocation or opportunities
- A conflict of interest
- Wider reputational or legal risk to chambers

This policy would need to be framed in a reasonable way for established relationships – there shouldn't be an expectation that employees or members report every sexual interaction. There is a need to balance Article 8 rights to private and family life with the need to ensure protection from harassment. If you adopt such a policy, thought should be given to the process and proportionate responses to disclosures, for example, taking action to ensure fair allocation of work or led opportunities, or wellbeing checks.

Handling complaints informally

Your policy should provide for a range of potential outcomes, with significant flexibility if an informal route is followed. For example, a victim may simply want a record kept of what has happened in case the behaviour is repeated or happens to someone else. Or they may simply want someone with authority to have a quiet word with the perpetrator so that the harassment is not repeated. It is, however, important that you make an independent assessment of the situation: it may be that, despite the victim's wishes, the seriousness of the allegation is such that further action should be taken.

Where the person being complained about is spoken to and the harassment is admitted, the seriousness of the conduct must be considered and appropriate and proportionate action taken. This is not just about punishment or sanctions, but also about ensuring the harassment does not continue. For example, it may be appropriate to place restrictions on someone's attendance at your events or ensure they are clerked so that the victim is not expected to work with them or arrange for them to attend an anti-harassment training course. Documenting informal concerns will also help you understand risk factors and take mitigating steps to prevent harassment happening again.

Don't consider the resolution of a complaint to be a 'closed book'. The complainant may need ongoing support. The conduct of the alleged perpetrator may need ongoing monitoring. If further reports are received from the same complainant, or about the same alleged perpetrator, then a historical report or investigation and any sanction will be relevant to how the later report is handled.

Handling complaints formally

Where harassment is not admitted, it may be necessary to handle the complaint formally. Bear in mind that a formal process could be extremely distressing for the complainant and alleged perpetrator, so you should only decide to proceed to an investigation after careful and sensitive consultation.

The decision maker(s) established by your harassment policy should consider all the evidence and decide whether the allegation is proven. If proven, the seriousness and nature of the conduct must be considered in determining appropriate action. This could include some of the outcomes referenced above (under informal complaints handling). It will also be important to carefully manage the future working relationship between the complainant and the alleged perpetrator (and possibly witnesses) which is likely to be at least awkward and may well be acrimonious and/or upsetting.

Given the seriousness of any allegation to both the complainant and the alleged perpetrator, there should be an appeal process.

All allegations of harassment must be dealt with promptly. A complainant is likely to be extremely anxious after coming forward. An alleged perpetrator is also likely to be very anxious once they learn that a complaint has been made about them.

We advise that the aim should be to reach a decision or resolution within 14 days if at all possible. Individuals may need to be reminded that, in general, anonymous complaints cannot be processed formally as they deprive those against whom complaints are made of a fair procedure.

Appeals process

Your policy must have an appeal process which the complainant or alleged perpetrator can use if they are dissatisfied with the outcome. To make this work, you need to be mindful of ensuring there are appropriately senior people, who haven't been involved in the original complaint, who can form an appeals panel or committee and consider any appeal to make a final determination on the matter.

The appeals process should be time limited. You should set a reasonable timeframe in which an appeal can be raised. The process should also detail what can reasonably be considered as part of any appeal. It is sensible to state that the appeal will be a review process and will consider whether the outcome is fair, rather than a full re-hearing of the complaint. It should also state that the conclusion of the appeal is final.

Complaints about people outside chambers

Where a complaint is about a professional client or a member of another chambers, support should be given to the complainant and careful thought given as to how to best address the situation. This may involve contacting the client's supervisor or the barrister's head of chambers. In cases where the alleged perpetrator is a solicitor, it may be appropriate to make a report to the SRA.

If there is a significant power disparity – for example, when an established or senior barrister or employee behaves inappropriately towards a mini-pupil, pupil or very junior tenant or employee – you may need to take active steps to protect the complainant and support them to make an informal complaint to the relevant chambers, to the Commissioner for Conduct or to the Bar Standards Board.

Complaints about the behaviour of judges

Where the complaint is about a judge's behaviour, it may be appropriate to contact their senior presider or support the complainant in reporting to the **Judicial Conduct Investigations Office** (JCIO).

Disciplinary and grievance policy for members

Chambers need to ensure that they have appropriate policies and procedures in place to deal with complaints of bullying, harassment and sexual harassment by members and about members. This includes having appropriate clauses in the constitution to give effect to those policies.

As well as policies for employees (usually included in the employee handbook) and pupils (included in the pupillage agreement and policy), chambers should have members' grievance and disciplinary policies in place.

These policies should cover how complaints can be raised, as well as informal and formal processes for responding to issues. The policies should be drafted to work with the anti-bullying and harassment policy, and chambers' constitution. Template members' **disciplinary** and **grievance** policies can be found at the end of this toolkit.

Support for everyone involved

Whether they are a complainant, respondent, witness, bystander or part of an investigation or panel, anyone involved in a complaint about bullying, harassment or sexual harassment may need support. Chambers may be able to provide in-house support or signpost to any of the following:

- Confidential advice in relation to bullying, harassment and sexual harassment can be sought at any time from the Commissioner for Conduct's team via **Talk to Spot**
- LawCare provides a free and confidential helpline for lawyers, providing wellbeing and mental health support: 0800 279 6888
- Wellbeing at the Bar contains resources, sources of advice and support for barristers including access to counselling: **www.wellbeingatthebar.org.uk**
- Victim Support provides an **independent support service** to anyone considering raising concerns about bullying, harassment or sexual harassment with the BSB. Call 0300 140 0094

- The Bar Council's Ethical Enquiries service can advise barristers unsure about their ethical reporting obligations. Call 020 7611 1426 or email **ethics@barcouncil.org.uk**

More vulnerable complainants

Junior and new tenants, pupils and junior staff are particularly vulnerable. Pupils will often be extremely reluctant to make a complaint, fearing that their prospects of tenancy will be damaged. New tenants and staff may be concerned that as the new person in chambers they are less likely to be believed or treated fairly than someone who has been there for years.

It is therefore important to ensure they are aware of your policy from the start of their pupillage, employment or tenancy, and are familiar with the person they should go to if anything untoward happens. They should also be given reassurance that they should come forward with concerns and that it will not affect their prospects. Confidentiality is of course key. They should be provided with details of support services available (see section above 'Support for everyone involved').

Pupils

Particularly careful measures are required in relation to pupils. There is evidence that pupils can be targeted by harassers, and there are significant deterrents to them raising a concern. Firstly, the fear that doing so may get in the way of their pupillage being signed off or may harm their tenancy prospects and secondly, the fact that they do not yet have the well-established relationships of trust and confidence that are often an essential precursor to feeling comfortable talking to someone about these sensitive, personal issues. For these reasons, Baroness Harman's review concluded that the prohibition on sexual relationships with pupils is an important protective policy.

There is clear value in pupil (and mini-pupillage) supervisors undergoing training regarding sexual harassment, discrimination and inappropriate behaviour so that they know how to handle any concerns raised by their pupil appropriately and sensitively and are familiar with your policy and procedures.

Supervisors need to know who to seek further advice from themselves (should they require it) and have a good understanding of what conduct is inappropriate. This is

important so that pupils have confidence in their supervisor's ability to provide appropriate advice and support.

It is equally important to demonstrate to pupils that you take these issues seriously and want them to speak up if they have any concerns, and to not worry about any impact on their tenancy prospects. This involves more than simply handing them your written policy and advising them to read it. It should be a discussion about who to go to with any concerns and reassurance that they will be taken seriously and supported.

New pupils should have any policy and chambers' approach explained to them, preferably by the appropriate person in chambers (for example, the head of pupillage or the EDO) in an informal and confidential meeting, before or at the start of their pupillage as part of any induction process.

A buddy system which pairs pupils with a recently qualified or junior member can provide pupils with a way of raising issues they may not feel comfortable raising with a more senior member.

It is also good practice for the head of pupillage or EDO to contact pupils from time to time throughout their pupillage to check in on them. Recognise that the insecurity of being a pupil will, for some, remain a barrier to raising concerns until after they have taken tenancy. It is therefore useful to provide new tenants with an opportunity to raise concerns about anything that happened during their pupillage year, which they may have felt unable to come forward about at the time.

If a pupil makes an allegation of bullying, harassment or sexual harassment by their pupil supervisor, consideration should immediately be given as to whether the pupil should be moved to another supervisor (and it would be rare that this step would not be taken immediately). It must also be made clear that this would not affect the pupil's position in chambers, and, of course, the reason for the move must be kept absolutely confidential.

Mini-pupils, students and others

Like pupils, mini-pupils and students are an exceptionally vulnerable group and may fear a complaint will jeopardise a future career at the Bar. Much of the advice regarding pupils is applicable to mini-pupils and students.

Employees

BSB Rules state that your policy must explain that employees have a right to complain if harassment occurs. In addition, most chambers will (and ought to) have a separate equality policy, grievance procedure and disciplinary procedure applying to staff. Complaints by and about staff must be dealt with in line with those policies and procedures.

In developing a policy and agreeing procedures, consider the following scenarios, as you may need to develop slightly differing approaches for each:

- A tenant or member alleges harassment from another tenant or member
- A pupil alleges harassment by a tenant/member or employee
- An employee alleges harassment by a tenant or member
- A tenant or member alleges harassment by an employee
- A tenant, pupil or employee alleges harassment by a professional client
- A tenant, member or pupil alleges harassment by a judge

In relation to allegations against employees, chambers should also have a disciplinary process through which appropriate action can be taken.

Where an allegation is made against a solicitor, chambers will have to consider whether it needs to report the matter to the SRA and must take the allegations seriously regardless of whether this affects your relationship with a professional client.

Anti-harassment and bullying training for members and staff

You may want to include reference to anti-harassment and bullying training for your members and staff in your anti-harassment policy, or in any separate training policy that you have in chambers.

Baroness Harman's review recommends mandatory and regular (every three years) chambers training on this issue. As BSB does not currently require this training to be mandatory, it is helpful to make it a requirement in chambers' policy as this ensures all those who need it attend the training.

The training should cover:

- Standards of behaviour
- What constitutes bullying, harassment, sexual harassment and victimisation
- How to be an active bystander

- Reporting pathways to the Commissioner for Conduct, the BSB, and the JCIO
- An overview of your formal complaints procedure
- Any preventive and safeguarding measures you have in place
- Signposting for advice and support

Include information about being an active bystander in training
Training should include scenarios to support members and employees to think about how they could or should be active bystanders when they see something which isn't right and falls below the standards of expected behaviour.

There are a number of models for being an active bystander, for example the 4 Ds: direct action, delegate, delay and distract. This model is used by the Bar Council.
• **Direct action:** directly intervene to stop the behaviour or incident and name the behaviour and ask for it to stop.
• **Delegate:** escalate your concerns to a trusted colleague or one of the people listed in chambers' anti-harassment policy.
• **Delay:** it might be too hard to take action in the moment, but you can follow up with the person involved afterwards or raise a concern.
• **Distract:** start a conversation, change the subject or invent a call or meeting to remove either party from the situation.

Regular training (every three years) enables you to ensure members and staff are aware of developments in law, changing expectations of behaviour, and to discuss recent case law or any changes to your complaints process etc.

Bar Council can provide suitable training both on-demand as well as in- person and bespoke training for chambers

Or contact our team at **trainingandevents@barcouncil.org.uk**.

Chambers' constitution and employment policies

Baroness Harman's review recommends updating your constitution[11] and reviewing relevant employment policies to ensure they:

- Set out clearly the range of sanctions available for findings of serious misconduct
- Require members and employees to comply with policies, procedures and decisions as to sanctions
- Include a power to expel or suspend a member or director where the seriousness of the conduct warrants such action. The power to suspend and expel ought to be exercised by a trusted committee within chambers, which includes members and senior employees
- Require any applicant for tenancy to disclose whether they are, or have been, subject to any disciplinary investigations or findings whether by any of their previous chambers, their Inn or the BSB, JCIO or other regulator
- Make provision for expulsion and reporting to the BSB (for dishonesty) in the event of a false declaration

There is no 'one size fits all'. You should choose an approach which is consistent with Baroness Harman's recommendations and meets your organisation's size and needs. There are different options as to who does what in relation to investigation and making a finding, imposing a sanction and considering any appeal. You may have a preferred approach depending on how you are set up and other policies.

It is an important principle that expulsion on the recommendation of the disciplinary committee should not require a vote at any chambers meeting. There are a number of reasons why a vote of the full membership about expulsion following a finding of bullying, harassment or sexual harassment is problematic:

- **There can be a significant difficulty in maintaining confidentiality**. Experience has shown that members will demand a lot of detail if asked to vote on an expulsion decision and this can result in them effectively re-

[11] Baroness Harriet Harman KC, Independent review of bullying, harassment and sexual harassment at the Bar, 2025, recommendation 29 **www.barcouncil.org.uk/resource/independent-review-bullying-harassment-sexual-harassment-report.html**

running an investigation into matters already considered by the disciplinary or appeals panel. In the case of sexual harassment this can be very challenging indeed, especially for the complainant who has a reasonable expectation of confidentiality.

- **Rigged or hijacked voting**. If a senior or popular member of chambers is to be expelled, other members may vote to protect the individual, irrespective of the conduct. They may also lobby their colleagues privately which can undermine the investigation and decision of the disciplinary or appeals panel and factions within chambers can form.

Both of the above risks can be extremely divisive and damaging in chambers, as well as traumatising for any complainant (who may also be a member of chambers). A chambers vote also undermines the purpose of the disciplinary or appeals panel which was charged with investigating and making a decision based on all of the information.

Chambers should have confidence in the policy and systems established and ensure any recommendation for dismissal following a finding of bullying, harassment or sexual harassment amounting to serious misconduct, can be carried out while maintaining appropriate confidentiality for the parties involved.

Provisions relating to the dismissal of staff, including the senior clerk, or chief executive or chief operating officer should be removed from your chambers constitution and dealt with in accordance with the disciplinary and grievance policy for employees. Where the senior clerk or chambers director is also the owner, effective contractual arrangements should be in place that enable action to be taken in cases of bullying, harassment and sexual harassment.

Disciplinary matters involving pupils should be governed by the pupillage agreement and your disciplinary and grievance policy for pupils.

Model clauses for constitutions

There is no model constitution for chambers, and each constitution is unique.[12] Chambers will also have different views on the appropriate approach to particular issues. The **template model clauses** are therefore provided as guidance but will need to be tailored in each case to your own constitution, structure and preferences. All references to 'members' should be extended to include all categories of members and door tenants, as applicable.

Note that the template clauses on suspension, expulsion and disclosure go beyond redress for bullying and harassment (and would cover chambers' approach to other types of misconduct). They are included in this guide as sanctions for misconduct in these areas.

Code of conduct

Having a code of conduct alongside an anti-harassment policy allows you to move from a reactive, compliance-based approach to a more proactive and values-based culture. While an anti-harassment policy focuses on defining unacceptable behaviour and setting out reporting procedures, a code of conduct goes further by articulating the standards of professionalism, respect and integrity expected of everyone working in your chambers, and in all interactions.

This is particularly important in the Bar context, where much behaviour falls into 'grey areas' that may not meet the statutory threshold for harassment but can still undermine inclusion, wellbeing and civility. A clear code helps establish shared expectations around everyday conduct, making it easier to challenge issues early, before they escalate.

Importantly, a well-communicated code can empower members and employees – particularly pupils, junior barristers and junior employees – to understand what they should expect from others and what is expected of them. It helps to create a culture where respectful behaviour is the norm, not just the minimum standard enforced when something goes wrong.

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[12] See Scott Leonard and Clare Kelly, 'Making your chambers constitution fit for purpose', Counsel magazine, July 2025 **https://www.counselmagazine.co.uk/articles/making-your-chambers-constitution-fit-for-purpose**

Consider how you might encourage members and staff to be active bystanders in your code of conduct

Developing a code of conduct

Developing a code of conduct for chambers is most effective when it is collaborative and clearly embedded into day-to-day practice.

Consider how you might encourage members and staff to be active bystanders in your code of conduct.

Below is a process that chambers can follow:

1. Clarify purpose and assign responsibility

- Start by being clear about why the code is needed and who will lead it
- Agree objectives, for example, culture change, clarity of expectations, alignment with chambers equality action plan
- Agree a working group, including members and employees
- Ensure visible leadership buy-in from the outset. This signals that the code is about shared standards, not just compliance

2. Gather evidence and insight

- Undertake a listening exercise which could include an anonymous survey, focus groups or conversations with different groups
- Review past issues or complaints (covering themes, not individuals) asking "What behaviours undermine a positive culture here?" and "What does good look like in practice?"

3. Define core principles and behaviours

- Agree 4 to 6 core principles
- Include examples of expected behaviours, for example "gives constructive feedback to pupils"
- Include examples of unacceptable behaviours, for example "engages in sexist banter"

4. Address 'grey areas' explicitly as this is where code can add the most value. This should include:

- Power dynamics, for example, silks/juniors, supervisors/pupils
- Bullying vs robust advocacy
- Social media and informal spaces
- Third-party behaviour, including clients, solicitors and judges

5. Share a draft and consult across chambers

- Hold meetings and encourage discussion as this engagement will support the adoption of the code of conduct
- Specifically seek input from those less likely to speak up

6. Communicate and embed your code into the way things are done in chambers – a code only works if it is used, not just published

- Hold a launch event or discussion session
- Include in induction for pupils, new members and employees
- Incorporate into training, including scenario-based discussions
- Ensure compliance is monitored and those who fall below the expected standards of behaviour are challenged

Examples of codes of conduct

Although a number of chambers have developed codes of conduct, most are internal documents and not shared on their websites. The only chambers with a published code of conduct for their barristers is **Doughty Street Chambers**.

Published codes of conduct are more common in the wider legal sector. Law firms with codes of conduct shared on their websites include **Clifford Chance** and **Linklaters**.

Work experience and mini-pupillage policies

Many chambers offer mini-pupillages and work experience (shadowing a barrister or working in chambers alongside clerks and the marketing teams). These

programmes are important in supporting access to the Bar and, as such, should be encouraged. However, it's important that anyone undertaking any form of work experience is safe and that risk is minimised for chambers.

We consider two types of work experience offered at the Bar:

- Formal – which we define as organised and arranged through chambers and overseen by chambers, with an open and transparent recruitment process (as recommended by Baroness Harman's review)
- Informal – which we define as opportunities arranged privately between a barrister or member of staff and an aspiring barrister/student. Examples of informal work experience or mini-pupillages, include – but are not limited to – offering an opportunity to someone you may already know, someone who has contacted you via social media or someone you met at a networking or careers event

There are safeguarding risks with both types of work experience programme (although there are far more with the second). In her review, Baroness Harman recommended mini-pupillages should only take place following a formal process of appointment, and anyone participating in any form of work experience should be given copies of your protection and safeguarding policies.[13]

There is a particular problem with informal mini-pupillages and work experience opportunities as they benefit those who have access to networks at the Bar. This inevitably creates inequality in access. The lack of formality can also lead to exploitation where mini-pupils are used as free administrative labour or where there is an implied promise of pupillage which creates power imbalances. In these contexts, harassment and inappropriate behaviours are more prevalent. This is why some chambers have taken the decision to prohibit informal mini-pupillages and work experience.

If you and/or your members want to continue to offer informal mini-pupillages and work experience, as well as formal minis and work experience, they should be

[13] Baroness Harriet Harman KC, Independent review of bullying, harassment and sexual harassment at the Bar, 2025, recommendation 11 **www.barcouncil.org.uk/resource/independent-review-bullying-harassment-sexual-harassment-report.html**

covered by your policy.[14] You may also wish to have a separate policy to cover work experience offered by staff, for example, in the clerks' room or with the marketing team. **Policy templates for both are available**.

As a minimum, your work experience and mini-pupillage policies, and any arrangements with respect to informal opportunities, should ensure:

- All informal and formal work experience and mini-pupillages are registered with a named individual in chambers before they start. We've created a **sample registration form** in the templates section, which we encourage you to use. As an additional benefit, this should also help you monitor and record work experience offered more efficiently
- All participants are given a copy of your harassment and complaints policy, as well as the contact details of the person (an 'appropriate advisor') they should contact if they have a problem or concern. Ideally, participants should be introduced to this person before their placement starts
- All barristers hosting work experience or mini-pupillages are provided with guidance on appropriate behaviours and expectations (see box below) and have completed anti-harassment training within the last three years

Guidance for work experience and mini-pupil hosts

This list outlines basic conduct and safeguarding expectations for those hosting mini-pupils and work experience students. It is intended to assist barristers in understanding what is expected of them.

It is not intended to be comprehensive, and you are encouraged to develop your own detailed safeguarding policies/adapt this content for your members.

1. Recognise that all mini-pupils and work experience students require safeguarding, irrespective of age, life experience or other factors.

• Mini-pupils and work experience students are in a position of inherent vulnerability during placements. For example, they may believe that making a complaint could jeopardise their prospects of a career at the Bar

• Be conscious of these power imbalances and prioritise safeguarding for all students, regardless of age, life experience or other factors

2. Ensure that the placement has been properly registered and approved.

[14] Note this is not currently a regulatory requirement but is good practice

- Always comply with your chambers policy on registration and ensure that the necessary approval has been obtained. You should never host a mini-pupil or work experience student without your chambers' prior knowledge
- Be aware that your chambers may not permit 'informal' mini-pupillages or work experience placements (ie placements that are organised outside of a formal selection process). Do not agree to host a mini-pupil or work experience student without checking your chambers' policy on this first

3. Provide mini-pupils and work experience students with safeguarding information.

At the start of their placement, all mini-pupils and work experience students should be provided with the following:

- A copy of your chambers anti-harassment policy
- Information on how to raise a complaint or concern, and
- The contact details of a senior member of chambers staff with whom they can liaise during their placement

Make sure you're familiar with the above information. It is particularly important that you understand what channels are available for mini-pupils and work experience students to raise complaints or concerns. Be aware that students may find it easier to approach a member of staff.

If your chambers expects individual barristers to be the ones to provide mini-pupils and work experience students with the above information, ensure that you build in sufficient time for this when structuring the timetable for a placement.

4. Provide a safe and respectful environment.

- Your interactions with mini-pupils and work experience students should be professional, respectful and courteous
- Under no circumstances should you engage in behaviour that constitutes harassment or is otherwise discriminatory, intimidating or inappropriate. You must also take all reasonable steps to ensure that students are not subjected to such behaviour by, for example, other barristers or clients
- If you have concerns about the behaviour of another barrister towards mini-pupils or work experience students, you should raise this with a nominated person or duty holder in chambers (as per your policy)

- Ensure that mini-pupils and work experience students are appropriately supervised at all times. Do not leave students alone whilst working
- Where possible, avoid being alone in an enclosed space with mini-pupils or work experience students. For example, if you're working in your room in chambers with a student, consider keeping the door open (where confidentiality allows)
- Mini-pupillages and work experience placements should only ever take place during normal working hours, and you should strictly enforce these hours
- When planning the timetable for a mini-pupillage or work experience placement, consider whether the content of the work is suitable for a student. Be mindful that cases which you consider to be routine may be distressing and/or inappropriate for students who are new to your area of law

5. Maintain clear professional boundaries.

- Do not socialise privately with mini-pupils or work experience students
- Subject to any policy your chambers has in place, it may be appropriate for you to bring mini-pupils or work experience students to events happening in chambers during working hours. You should exercise your judgement and consider factors such as the size and nature of the event, the individuals attending, and whether alcohol will be served
- You should not invite mini-pupils or work experience students to attend after-work social events, such as drinks at a pub
- Do not use personal social media accounts to communicate with mini-pupils or work experience students. It may be acceptable for you to 'connect' with mini-pupils or work experience students on LinkedIn – you should exercise your judgement and ensure that all communication remains professional

You should also have a mechanism that enables you to **prevent** a member from hosting someone (informally or formally) where you may have a concern. You may be able to achieve this by having a sign-off process as part of the work experience or mini-pupillage registration process.

Under 18s (children)

Ensure placement arrangements (including travel to other sites) are properly communicated and signed off, alongside any confidentiality agreements, by parents or guardians, as well as the student.

You should take extra precautions around material which may be distressing to those doing work experience. In particular, take steps to ensure under 18s aren't shown any distressing or sexual images or materials which may form part of cases but would be inappropriate for children to see. It will be rare that any mini-pupillage or work experience is suitable for under 16s.

Further, and more general, **guidance on work experience** is available on our ethics and practice hub and should be considered when you develop your policy.
See also important information on **confidentiality and data protection with respect mini-pupillages, work experience and student placements**.

Managing complaints

In this section we outline good practice in relation to informal and formal complaints handling.

- Responding to a complaint
    - Talking to the person who's raised the concern or complaint
    - Being sensitive to concerns a reporter may have
    - When a report is also being made to the BSB
    - When the report is about a criminal act
- Deciding on a formal or informal process
    - Following an informal process
        - Informal resolution with the person being complained about
        - Holding a meeting with the people involved
        - Mediation
        - Concluding an informal process
    - Handling a complaint formally
        - Decide who will investigate the complaint
        - Consider interim measures
        - The investigation
        - Making an investigation plan
        - Telling the person being investigated
        - Fast-track process
        - Confidentiality
        - Carrying out an investigation
        - Holding investigation meetings
        - The right to be accompanied
        - Recording meetings
        - Talking to witnesses
        - The investigation report
        - Taking action following an investigation

It's vital there are trained people within your chambers who can respond effectively to complaints. They should understand the anti-harassment policy and complaints policy, be able to protect confidentiality, and have the resources they need to carry out investigations. They should also have the power to make findings and impose proportionate and appropriate remedies.

Responding to a complaint

It's important that everyone working in and around chambers knows what's expected of them and how to raise an issue. Any concern raised about bullying, harassment or inappropriate behaviour should be taken seriously and looked into it as soon as possible, using the procedure laid out in your policy. Speed is of the essence as issues can escalate and confidence can be affected by delays.

However you approach looking into the complaint, you should ensure that you're being fair and sensitive to:

- The person who made the complaint
- Anyone who witnessed the behaviour
- The person the complaint is about

If someone makes a complaint a long time after an incident has taken place, you should still take it seriously and follow the procedure set out in your policy.

Talking to the person who's raised the concern or complaint

The first conversation you have with the complainant is key as it can set the tone for what happens next and can make the difference between someone trusting the process and disengaging completely. This conversation will also help you to understand what has happened and the best approach.

When you approach this conversation, it's important to keep an open mind, particularly if:

- You get on well or have a close relationship with either party
- You don't get on well with one of them and there's a risk of bias or pre-judging the situation
- The person being accused is senior, influential or powerful

- You don't think the behaviours are serious enough to warrant a complaint – remember that behaviours which can seem completely innocuous to one person can feel very different to another

At this conversation, you are trying to put them at ease, reassure them that they will be listened to and taken seriously, and that there is a policy in place to deal with these issues. You should also explain that one outcome could be that the complainant does not wish to report to the BSB, but that chambers might be obliged to do so.

It can also be helpful to get as much information as possible while it is front of mind for the complainant and to help you better understand what the next steps should be. Alongside reassurance about the process and confidentiality, other areas which it can be useful to cover include:

- Details about what's happened
  - Try to help them to be as specific as possible
  - When, where, and how did it happen?
  - Was there any physical contact?
  - How many times has the behaviour occurred?
- Witnesses and evidence
  - Did anyone else witness the incident(s)? Who?
  - Does the complainant have any evidence (eg emails or notes)?
- Impact and desired outcome
  - How has this behaviour affected them and their work?
  - What action would they ideally like to see?
- The support available to them
  - Make sure they have a contact person in chambers who can support them through any process
  - Signpost to other support available, including wellbeing and the Assistance Programme: **www.wellbeingatthebar.org.uk/assistance-programme/**

It may not be possible to ask for all of this information, and it will depend on how the complainant is feeling and their state of mind. It is also important to reassure them that not being able to answer all of these questions doesn't mean their complaint won't proceed.

There are also a couple of pitfalls which are important to avoid, especially right at the start of any process as they can put off a complainant. These include:

- Suggesting it can be a difficult process or asking if they're sure they want to go ahead with the complaint
- Questioning whether what they have reported is serious – it may not seem 'that bad' to you but could have been very unpleasant to them… and it may be the very first in a longer list of issues they have had
- In the case of incidents that happened a long time ago or repeated behaviour, asking why they have taken so long to come forward

Active listening

How you listen to someone can make a big difference in how they experience the conversation, and how much information they're able to share with you. Active listening is a skill you can practise, and there are some tips which help you get into an active listening mindset.

- **Be present and attentive:** Give the person your undivided attention. Avoid distractions like your phone or computer.
- **Use positive body language:** Face the person, maintain comfortable eye contact, and lean in slightly to show engagement.
- **Listen without judgement:** Withhold your own opinions or biases. Your goal is to understand their perspective, not to debate or form a judgement at this stage.
- **Avoid interruptions:** Let the person finish their thoughts before you speak. Interrupting can make them feel their concerns aren't being valued and can break their train of thought.
- **Show empathy:** Acknowledge their feelings and the difficulty of the situation. Phrases like, "It sounds like you're feeling very upset" can show you understand, without passing judgement
- **Ask clarifying questions:** Use open-ended questions (starting with "what," "how," or "can you tell me more about...") to encourage them to elaborate and to gather more details

- **Paraphrase and summarise:** Periodically restate what you've heard in your own words to confirm you understand correctly. For example, "So, if I understand correctly, you're saying that...".
- **Don't focus on note taking:** Try and listen very carefully to what they say and make notes immediately afterwards, while the conversation is still fresh in your mind. You can always clarify points of detail afterwards if needed.

Being sensitive to concerns a reporter may have

Being bullied or harassed can be extremely distressing. It can leave someone feeling vulnerable, sometimes unable to continue with day-to-day activities and in need of a lot of support. It can be particularly hard for someone to report being sexually harassed as they are even more likely to be worried that:

- They won't be taken seriously
- They will be forced into a process they have no control over
- They will be asked intrusive questions about their personal life
- They will be made to confront the person they're complaining about
- Other people will find out personal information about them
- They will be victimised for making a complaint

It's important you make sure none of this happens, and that they are reassured they can trust you. To do this you should make sure that:

- Reporting sexual harassment is as easy as possible
- The person making the complaint feels safe and protected
- You offer the person mental health support, for example through the **Bar's Assistance Programme**
- You talk to them privately and do not rush them
- The person investigating the complaint is impartial and trained for the role

It can also be extremely distressing to be accused of bullying, harassment or sexual harassment. The person being accused may also have similar worries about being taken seriously, intrusive questions about their personal life or that everyone is going to find out about the report. Again, it's important to make sure this doesn't

happen, and they should be offered the same mental health support and reassurance that the process will be unbiased and fair.

When a report is also being made to the BSB

The fact that an issue has been, or may need to be, reported to the BSB doesn't preclude chambers also following their own process.

The BSB may have a different threshold for progressing an investigation. Something which may breach your policy, may not reach the threshold for a BSB investigation. Further, any BSB process will inevitably take more time than your process in chambers, and with these types of complaints, speed is of the essence.

It is therefore recommended that your process begins as soon as a complaint is received, irrespective of any action by the regulator or any other body (other than the police – see below).

The BSB provides resources and support for those making or handling complaints of bullying, harassment and sexual harassment. These include:

- A webpage detailing the support available
- Guidance on how the **BSB handles reports of harassment**
- An **independent support service** from Victim Support

When the report is about a criminal act

There may be occasions when someone makes a report about a serious sexual assault or other assault which you believe is a criminal offence, and they may or may not want to make a report to the police. If this happens, you should:

- Talk to them about whether they intend to tell the police; make it clear that this step isn't automatic in your grievance process but could be appropriate
- Encourage them to report it, without putting any pressure on them
- Support them if they choose to report it

If they decide not to report it to the police, you should respect their decision. There may be circumstances where you feel you need to tell the police yourself, for example if there's an ongoing risk to the person's safety or the safety of others. If

you're going to tell the police, you should tell the person who's made the complaint first and then let them know once you've reported it to the police.
If the report is related to an ongoing criminal investigation, you may need to consider whether or not you can proceed with your own investigation. You should:

- Check with the police before taking action to make sure there's no risk of prejudicing the criminal process
- Consider getting legal advice
- Give relevant information to the police, if appropriate

If the criminal process does not result in a conviction, you could still take disciplinary action as the behaviour may still have breached your policy and the evidential requirement is lower.

Deciding on a formal or informal process

Handling complaints informally means a problem can be dealt with without the challenges presented by a formal procedure. Informal processes can be more flexible and give you the chance to nip behaviours in the bud. The slower and more formal the resolution process, the greater the risk of disclosure to other members of chambers and the greater the need to involve others. However, in some instances formality may be more appropriate and proportionate.

ACAS recommends[15] that, where possible, it is preferable to resolve a complaint of bullying, harassment or inappropriate behaviour informally. Dealing with it informally means taking steps to resolve the complaint without using a formal grievance procedure.

Factors to consider include:

- What the person making the complaint wants – this isn't the only factor, but it is important
- What your policy says – your policy might include examples of behaviour which always require a formal process
- How serious the issue is – when a complaint or report is about something which potentially presents an ongoing risk to others' wellbeing, or the

[15] See ACAS 'Approaching a complaint' **www.acas.org.uk/handling-a-bullying-discrimination-complaint**

reputation of the organisation, it may be appropriate to take a formal approach.

Speak to the person who's raised the issue first and try to agree on an appropriate and proportionate way forward. If you can't agree, you have to make a decision based on the criteria set out above, and if you're in any doubt, you should deal with it formally.

Example

A pupil tells the chambers EDO that a member of chambers has been asking them about their relationship status, talking to them about their own acrimonious break-up and suggesting they should go out and talk more. The pupil feels uncomfortable but doesn't want to make a fuss.

The EDO reassures the pupil and instigates an informal process which includes discreet fact finding to establish the member's intent and if this is a course of conduct (ie if it has occurred on more than one occasion).

The informal fact finding revealed the member is having a difficult time and was trying to make new friendships which is why they had latched onto the pupil who had been the only person around. They were shocked and sad to hear their approach had made the pupil feel uncomfortable. They acknowledged that their behaviour had been inappropriate and committed to leaving the pupil alone.

The EDO concluded that the behaviour didn't amount to serious misconduct and therefore didn't make a report to the BSB or Commissioner for Conduct. However, they put in place measures to support the member and ensure pupils knew how to raise issues like this in the future.

Following an informal process

Your policy should detail the informal process you should follow, and there should be a panel of people listed in the policy who can support the process. You, together with the appropriate small group, need to consider the most appropriate action to take. This will depend on the circumstances of the complaint and what you've learned about it so far.

An informal process should start with fact finding which may include:

- Having a private conversation with the person who's been complained about to establish their version of events
- Speaking to others who may have witnessed the incident or be able to provide more context to the complaint
- Facilitating a meeting with everyone involved to air the issues raised by the complaint, if appropriate (caution is recommended where there is a risk of tempers being raised)

During an informal process, you might decide there is no need for action or further steps. If so, you should:

- Keep a written record of the process followed, the reasoning and the decision
- Update the person who made the complaint, and explain why you decided no action is needed

This decision can be made at any point during the informal process.

Informal resolution with the person being complained about

Once you have more information, you may conclude an informal resolution is appropriate and proportionate. This could include:

- Agreed resolution of the issue raised
- If the complainant wishes, they may agree to a facilitated meeting with the respondent, allowing them to explain how the behaviour was inappropriate and why it was unwelcome. It is important to note that where sexual harassment has been reported or where there is a significant imbalance in power between the parties, a facilitated meeting will likely be inappropriate
- A conversation with the respondent outlining the consequences of it happening again (ie complaints about them of a similar nature would likely lead to a formal investigation)
- Arrangements to minimise contact between the parties involved including:
  - Being clerked separately
  - Agreeing not to attend chambers or Bar social functions for a period, or not to consume alcohol at such events
  - Agreeing to work remotely
- Agreeing to attend a relevant training course

- The complainant or a member of chambers making a report of serious misconduct to the BSB or other relevant regulator
- Ongoing monitoring

As with interim measures, where possible you should not put restrictions on, or move, the person who made the complaint unless they request it. This is because changing their working conditions could be seen as a punishment for complaining (which could amount to victimisation).

You might need a few separate conversations with each party to agree a way forward.

Bespoke training and support

Sometimes a tailored intervention is needed to help someone understand the impact and consequences of their actions, and the reason why concerns have been raised about them.

The Bar Council has developed a bespoke course, which can be designed around the issues raised by a specific complaint following an investigation. Our trainers work with the person who has been complained about in an individual and confidential setting. For more information, email equality@barcouncil.org.uk

If the person complained about disputes what happened or does not agree to make any change, you'll need to take a different approach. For example, you could try to resolve it informally in another way or try to resolve it formally. It will depend on the circumstances.

Holding a meeting with the people involved

Depending on the situation, you might feel it's appropriate to arrange an informal meeting. Before arranging this, you should meet with everyone separately first. Make sure they're all willing to meet together to try to resolve the complaint.

If you have a meeting, you should:

- Give everyone enough notice of the meeting
- Hold the meeting in a private place
- Listen to what everyone has to say
- Take everyone's views into consideration
- Work towards resolving the issue in a way that everyone can accept

- Make sure any agreed outcome is consistent with similar situations in the past and in line with your policy
- Keep notes of any agreed actions

If you cannot agree on an outcome in the meeting, you should continue to try to resolve the issue afterwards. For example, you might approach everyone again and suggest a different way to resolve the issue.

Mediation

If everyone agrees, you could try mediation. Mediation involves an independent, impartial person helping both sides to try to find a solution. Mediation can be useful if there's been a misunderstanding or lack of awareness of how someone's actions are affecting someone else.

Mediation may not be appropriate in all situations. Where there has been sexual harassment or where there is a significant imbalance in power between the parties, for example, mediation can be difficult and may be inappropriate. A trained and experienced mediator may be needed, and even then, if there's a risk to safety or wellbeing it should not be considered. If one of the parties can't freely and fairly participate, mediation will not be suitable.

Concluding an informal process

If the issue is resolved informally, you should:

- Keep a record of the actions taken and the outcomes
- Keep in touch with the person who made the complaint to check things are still okay, for as long as is needed

If you need to take it further

If the complaint cannot be resolved informally, you or the complainant might decide to take it further as a formal complaint. This decision can be made at any point during the informal process.

Handling a complaint formally

Formal complaints, and issues of a serious nature, require a formal process which should be set out in your anti-harassment and disciplinary policies. This is a **regulatory requirement**. You will need to deal with a complaint formally if:

- The complainant is not willing to try to resolve it informally

- Your policy says the type of situation they're complaining about must be dealt with formally
- The complaint is very serious
- The situation could lead to disciplinary action in chambers

The policy should include a framework around which an investigation should be structured, a process for decision making, and an appeal process.

Decide who will investigate the complaint

The process will normally be led by your head of chambers or your most senior executive, who will appoint a panel of trained members and staff to undertake an investigation. They should be neutral and not involved in the complaint. **Ensure that there is someone senior who isn't involved in any part of the process who could be available in the event of an appeal.**

Conflicts of interest and other factors need to be considered in the decision. Chambers may choose to use an external investigator (this could be a barrister from another set, an employment solicitor or an HR specialist with experience of investigations) for various reasons, including:

- The matter is very serious
- Chambers doesn't have the resources or time
- There is a risk of bias, or it is otherwise difficult because of the people involved

Consider interim measures

In some circumstances, you might need to separate the people involved while you handle a formal complaint. You should make sure any temporary change is done fairly. For the person complained about (the respondent) this may involve:

- Asking them to work from home
- Restricting access to chambers or chambers events or meetings
- Changing clerking teams
- Ensuring they are not allocated work on the same case as the complainant

Where possible you should not put restrictions on, or move, the person who made the complaint unless they request it. This is because changing their working conditions could be seen as a punishment for complaining (which could amount to victimisation).

You may need to consider suspending someone pending an investigation. Suspension will only be appropriate in some situations, and you should consider each situation carefully before deciding whether to suspend someone. Suspension does not mean the person who is the subject of the complaint has done anything wrong and should not be used to discipline someone. If the person suspended is a self-employed barrister, you will need to consider whether and how to continue clerking them and ensure you are acting in line with your constitution. Suspension can have a significant effect on working relationships and the mental health of the people involved. You should only consider suspension if you reasonably believe it is the only way to protect any of the following:

- The investigation – for example, if you're concerned about someone damaging evidence or influencing witnesses
- The organisation – for example, if there's a genuine risk to your clients, property or commercial interests
- Other staff
- The complainant or the person under investigation

Once you have enough information, carefully consider what you've found. This can help you decide whether suspension is a reasonable way of dealing with the situation. Whether a decision to suspend is reasonable depends on the individual circumstances and whether both of the following apply:

- You took steps that led you to believe suspension was a reasonable decision, and
- Other people, with the same information as you, would see that a decision to suspend was reasonable

In all circumstances, you should check if there is an alternative to suspension (as detailed above).

Example

A complaint about a member's behaviour at a chambers event is considered serious and, if there is a finding, would likely lead to a report to the BSB. There is another event in the diary, and the member has expressed their wish to attend this event as it's an important marketing opportunity.

The head of chambers considers the risk to the complainant if they are subjected to being at the same event as the member, and also the risk to others if there is a repeat of the behaviour by the member.

The head of chambers concludes that the member should be suspended from attendance at chambers' events until the conclusion of the investigation.

The investigation

An investigation is needed to find out all you reasonably can about the issues that gave rise to the complaint. The investigation should be designed to ensure you/the panel can:

- Gather evidence from all sides
- Find out if there is a case to answer
- Make sure everyone is treated fairly
- Help you decide what should happen next

If a reasonable investigation isn't carried out, any decisions made following it could be unfair and risk legal action. Investigations are covered by the **ACAS Code of Practice on disciplinary and grievance procedures**. Your policy or procedure for investigations must follow the ACAS Code as a minimum.

At any stage you can still look at whether the issue would be better resolved informally.

Making an investigation plan

Start by making an investigation plan. This can include:

- What needs to be investigated
- Who is carrying out the investigation
- 'Witnesses' – anyone who needs to be spoken with to find out about the issue

- Sources of evidence – for example, records, emails or CCTV recordings
- Time limits – for example, CCTV footage being deleted or key people going on leave
- Timeframes
- Policies or organisation guidelines to follow
- Setting out the importance of confidentiality
- Any other relevant points or information

A clear plan can help to:

- Make the investigation as quick and easy as possible
- Make clear exactly what needs to be done
- Make sure the process is full and fair
- Maintain good working relationships

ACAS provides a useful **template** for an investigation plan.

Telling the person being investigated

The subject of the investigation (the respondent) should be informed as soon as possible, unless there is a risk they will tamper with evidence or influence witnesses. When you speak to them, you should explain:

- Why the investigation is happening
- That this is the fact-finding stage and not a disciplinary meeting
- Who will be carrying out the investigation
- What the person (or people) leading the investigation are going to do
- That the person (or people) leading the investigation will need to talk to any witnesses
- How long it could take
- What will happen next, for example a meeting
- Who they can contact if they have any questions or concerns during the investigation

Being under investigation can be very stressful, so it's important that you consider the wellbeing and mental health of everyone involved. Make sure you stay in regular contact, that the person complained about has support available, and that they know they can contact the **Assistance Programme**.

Fast-track process

Where the respondent agrees that they did the behaviour or act complained of, and accepts an agreed resolution, it can be useful to have the option of a fast-track process which reduces the stress on everyone involved. A fast-track process isn't appropriate where the most serious sanctions may be applicable, or where facts are contested.

If deemed appropriate, the fast-track process would:

- Remove the need for an investigation and report
- Allow the disciplinary panel to decide on and apply the appropriate sanction

Contain a right to appeal, likely to a full investigation

Confidentiality

An investigation should usually be kept confidential. This can help to:

- Reduce any negative impacts to all involved
- Maintain good working relationships
- Reduce the risk of witnesses discussing or agreeing what their evidence should be
- Follow **data protection law**

It's important to explain the need for confidentiality. It should be made clear that breaches in confidentiality could lead to disciplinary action.

It should also be explained that information given as part of a confidential process may need to be shared with others on a confidential basis as part of the process.

Finally, everyone involved in an investigation should be allowed to discuss the investigation with an appropriate representative, if they have one.

Carrying out an investigation

The person investigating should be finding out if there is an issue that needs to be addressed. They should not be trying to prove guilt. They should do their best to:

- Be fair and objective

- Follow any policies or guidelines chambers has in place
- Gather as much information on the case as is reasonable, including exculpatory and inculpatory evidence (ie evidence which is in favour of the complainant's case as well as evidence which exonerates the respondent)
- Obtain evidence from both sides without trying to prove guilt
- Keep the case confidential

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair. Some investigations might take longer depending on the case and the number of people who need to provide information.

Your policy should have timescales for investigations. If it's found that more time is needed during the investigation, this should be allowed for. Any delays should be explained to all involved and written in the investigation report.

The person investigating should gather all the information they reasonably can and need for the case. They should work out what physical evidence is needed based on:

- What's laid out in the investigation plan
- What sources of information they can use
- Any time limits, for example, records being deleted

The order in which evidence should be collected depends on the matter being investigated.

More evidence might come to light as the investigation goes on, so the person investigating should allow for this. Types of physical evidence could include:

- Emails
- Paperwork
- Receipts
- Computer records
- Phone records
- CCTV recordings

- Attendance records

The person investigating must consider the ways they can gather information ensuring they follow the law – for example, on data protection or employment contracts – and respect the everyone's right to privacy.

The person investigating should keep a written record of how and why they obtained any evidence.

Holding investigation meetings

The person investigating will likely need to obtain information from:

- The complainant
- The person being complained about
- Witnesses and others who might have relevant information

In a potential disciplinary matter, an investigator should consider interviewing the person under investigation at an early stage. Doing this can help to establish which facts are disputed and allow an investigator to focus the rest of the investigation on these areas.

Also, if the respondent admits the allegations against them are correct it might not be necessary to investigate the matter as fully as planned. However, their explanation of why the incident occurred might still need to be investigated. Additionally, the respondent might satisfactorily explain the situation and no further investigation or disciplinary action is needed.

Before an investigation meeting with someone, you should:

- Let them know in writing
- Book a private room, where you are unlikely to be interrupted
- Explain the reason for the meeting
- Confirm the date, time and location
- Tell them if they have the right to be accompanied and how to arrange this (see 'The right to be accompanied' – below)
- Give them reasonable notice

- Explain how the information they give to you will be used

At the start of the meeting, an investigator should explain:

- Who is present and why
- The role of the investigator
- The purpose of the meeting
- The need for confidentiality during the investigation
- The fact that a witness statement might be used in an investigation report (usually this will be a signed copy of the notes from an investigation meeting)
- Who will see witness statements

During the meeting, an investigator should:

- Ask questions to gather the facts
- Ask questions in a neutral, non-confrontational way
- Record replies and any refusals to reply
- Note any evidence that supports or contradicts the complaint

At the end of the meeting, an investigator should:

- Check if there is anything else the interviewee thinks is important before ending the interview
- Ask if there are other witnesses the interviewee thinks should be interviewed and why
- Explain that they might need to be interviewed again
- Explain that the meeting is on the record and they will be provided with a copy of their witness statement shortly, for them to check for accuracy and to sign

The right to be accompanied

'The right to be accompanied' means that by law, an employee or worker can bring a 'companion' (relevant person) to the following meetings:

- In a grievance procedure – any meetings
- In a disciplinary procedure – a meeting or hearing that will give or confirm a formal warning or other disciplinary action

However, in a disciplinary investigation meeting, there is no legal right to be accompanied but it's good practice to allow it.

When someone has the right to be accompanied, they must choose their companion from one of the following:

- Someone they work with
- A workplace trade union representative who is certified or trained in acting as a companion
- An official employed by a trade union

Under the Equality Act, you must make **reasonable adjustments** for disabled people. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects.

You can, but do not have to, allow companions who do not fall within the above categories. For example, some might choose to be accompanied by someone from a professional support body, a partner or a legal representative.

Recording meetings

It is good practice to have a notetaker present to take notes of the meeting. This may also be done by an AI notetaker.

The investigator may wish to audio record the meeting to assist in the production of an accurate note of the meeting but sometimes a very long transcript is less useful than pithier notetaking.

In some instances, individuals may be reticent about being recorded and may request there is no audio recording. If such a request is made you should consider it and decide whether it would be appropriate not to record in those circumstances. It should be made clear what will happen to any recording in the future.

There is of course no problem with an interviewee making their own notes, but the investigator must clarify the need for a single set of agreed notes that they will arrive at from the notetaker's notes.

In some instances, an interviewee may ask to record the meeting. Your practice on the recording of meetings should be included in your policy, including any policy on covert recordings. This may include that a covert recording of an investigation meeting might be viewed as a misconduct matter or as a breach of trust and confidence.

Talking to witnesses

Witnesses can give important evidence that might help decide the outcome of an investigation. If there are any witnesses with information, the investigator can ask them to write it down in a witness statement or invite them to a meeting from which notes will be produced. Following the meeting, the witness should be asked to sign the notes to confirm their agreement and to make any corrections they consider should be made, before the investigator creates a final version of the notes. In some cases, the notes of the meeting can also form a witness statement.

In any investigation, the investigator will need to use their judgement as to who to speak to. If a large number of people witnessed the same incident, it may not be appropriate to speak to all of them. The investigator should decide which of them to speak to and check whether they're broadly saying the same thing.

The investigator doesn't have to talk to all witnesses, unless either of the following apply:

- The investigator feels they're not getting enough information, or
- They consider there are significant differences in what the witnesses say

Witnesses need to be informed from the outset how you will use their information, that the process is confidential but that their statement will need to be shared with others. For example, if the investigation leads to further action, the person under investigation will be given a copy of any written evidence. This includes witness statements. If someone believes they've been named in a report, they have the right to see any parts that:

- Have information about them
- Depend on information they provided

No one should not be allowed to see private information about other people.

Some witnesses may be reluctant to provide evidence for an investigation. An investigator should:

- Explore the reason a witness is reluctant to give evidence
- Provide reassurance
- Try to resolve any concerns they have

Where possible, investigators should avoid anonymous witness statements. This is so the person under investigation can understand and fairly question any evidence against them.

Anonymised witness statements should only be used in exceptional circumstances, such as when a witness genuinely fears revenge action. Witnesses should be told that if there are legal proceedings or reports to a regulator, the names of anonymous witnesses may have to be shared.

Where anonymity is agreed, an interview should be carried out and notes taken as normal. An investigator should remove relevant parts to prevent identification.

The investigation report

When the relevant information has been gathered and the investigation is finished, the investigator should produce a written report. This should be shared with the complainant and the person being investigated. If there are concerns about sharing sensitive personal information for data protection reasons, you might need to delete or withhold information, if there is good reason to do so.

The report should cover:

- The allegations which formed the basis of the investigation
- The process followed by the investigator
- The relevant policies and procedures under which the conduct is being investigated
- The facts that were established
- The facts that were not established
- Whether there were any mitigating circumstances that also need considering

The report should reflect the investigator's own conclusions and be objective, jargon-free, factual, concise, and include all of the evidence collected (this can be as an appendix). If any information is left out, it could make the investigation unfair.
The report can include recommendations for formal action, informal action, or for no further action.

Disciplinary meeting

Once the investigation has been completed, the disciplinary panel needs to decide what action to take next. The investigation might have found there's no evidence to carry on with the disciplinary procedure. In this case, the respondent should be told there'll be no further action.

Where the investigation shows there is a case to answer, the respondent should be invited to a disciplinary meeting. If the respondent is an employee, you must have a meeting or hearing as part of a fair process – see the ACAS code linked below – but it is good practice to provide any respondent, who may not be an employee, with an opportunity to make representations to the disciplinary panel before they make a decision.

The meeting should be held as soon as possible after the investigation, while giving reasonable time for the respondent to prepare.

In good time before the meeting, the disciplinary panel should put in writing to the respondent:

- The alleged misconduct
- Any evidence from the investigation
- Any other information they plan to talk about
- The date, time and location of the meeting
- You may want to allow the respondent to be accompanied by a companion (you must allow this for employees) or legal representative, and this should be communicated to them
- The possible outcomes

The meeting is the chance for both the disciplinary panel and the respondent to state their case. Everyone, including the respondent's companion or representative, should make every effort to attend.

In the meeting the disciplinary panel should:

- Explain the respondent's alleged misconduct
- Go through the evidence – this is very often simply the evidence appended to the report
- Make sure someone takes notes

The respondent should be given the chance to:

- Set out their case
- Answer any allegations
- Ask questions
- Show evidence
- Respond to any information given by witnesses
- Choose if their companion can speak for them at the meeting

The respondent's companion or representative may (should if they are an employee) be allowed to:

- Set out the respondent's case
- Respond for the respondent to any comments or points made at the meeting
- Talk with the respondent during the meeting
- Take notes

At the end of the meeting the disciplinary panel should take some time to consider the case carefully before making a decision and let the respondent know the expected timeframe. A confidential written record should be made of the meeting.

You can find more detailed advice on holding disciplinary meetings or hearings in the **ACAS guide to discipline and grievances at work.**

Taking action following an investigation

If a complaint is found to be substantiated, the disciplinary panel should consider the appropriate sanction. Sanctions may vary depending on whether the person who is the subject of the allegations is a member of chambers or a member of chambers staff.

The process may allow for the panel to implement the remedy, or a decision may be referred back to the head of chambers or management committee. If the process includes a referral to the head of chambers or management committee, chambers should take care to ensure independence in decision making and that recommendations made in the report are followed.

Chambers should identify in their policies the range of remedies which may be imposed following a formal process. These may include:

- Training course or intervention
- Mediation
- An apology
- Suspension from chambers activities (for example marketing events, socials, meetings etc) or agreeing not to drink alcohol at such events
- Working from home or outside chambers
- Temporary suspension from chambers
- Temporary or full suspension from being a pupil supervisor
- A first written warning kept on file [for a specified period]
- A final written warning [for a specified period]
- Dismissal on notice
- Summary dismissal (without notice)
- Removal of voting rights in chambers
- Consideration of termination of membership

Appeal process

There must be provision for a complainant or respondent to appeal a decision if they feel:

- The outcome is too severe or not severe enough
- The outcome is wrong
- Any part of the procedure was wrong or unfair
- They have new evidence to show

If there is an appeal, an appeals panel made up of people who have had no part of the process needs to look at the case again to see if the procedure was followed in a fair way and the outcome was fair. To do this they should:

- Hear the appeal
- Carry out further investigation, if needed (for example if new evidence comes to light)
- See if a different outcome is appropriate
- Provide the final outcome in writing as soon as possible

A confidential record should be kept of all complaints and of any meetings or investigations in connection with them.

Reporting obligation reminder
If an investigation concludes a barrister or pupil's behaviour amounts to serious misconduct, steps should be taken to ensure a report is made to the BSB.
The individual can be advised to self-report, or a report can be made by the head of chambers, the EDO, the investigator, complainant or anyone else with knowledge of the case.
Those with a reporting obligation should take steps to ensure a report has been made and should provide the BSB with all the relevant information gathered by the investigation.
If you're not sure whether the BSB Rules on serious misconduct have been breached, contact the Commissioner for Conduct's office for advice via **commissioner@barcouncil.org.uk**

Templates

In this section we provide template policies:

- Anti bullying, harassment and sexual harassment policy for chambers
- Grievance procedure for members
- Disciplinary procedure for members
- Model clauses for chambers' constitutions
- Risk assessment checklist
- Mini-pupillage policy
- Work experience (with chambers' clerks and staff) policy
- Chambers mini-pupillage and work experience registration form

Each of these policies is also available in word format to download and adapt.

Template: anti bullying, harassment and sexual harassment policy for chambers

Download editable version.

Scope

- This policy outlines what constitutes bullying, harassment and sexual harassment and sets out expectations of behaviour for chambers.
- This policy covers all those working in **[chambers]**, visiting chambers or providing services to chambers. It covers, amongst others, tenants, pupils, mini-pupils, work experience students, members of staff, clients and contractors. Anyone who is subjected to treatment which is considered to be bullying, harassment or sexual harassment under the terms of this policy, is able to raise a concern, complaint or grievance with chambers.

Purpose

- **[Chambers]** is committed to providing a work environment in which all individuals, clients and the public are treated with dignity and respect. Chambers is determined to promote a work environment in which everyone is treated equally and with dignity and can flourish. This policy is central to chambers commitment and will be applied rigorously.
- Bullying, harassment or sexual harassment in any form will not be tolerated or condoned at **[chambers]** and those practising from, working in, visiting or providing services to chambers have a right to complain if it occurs.
- Chambers combats harassment, bullying and sexual harassment through:
  - Offering guidance as to the type of behaviour that may be considered inappropriate
  - Taking appropriate steps to reduce or prevent the chances of inappropriate behaviour occurring
  - Resolving, informally and without blame, genuine misunderstandings and disagreements about whether such behaviour has occurred
  - Providing an effective and user-friendly system for raising concerns about objectionable behaviour
  - Taking effective steps to address incidents of inappropriate behaviour and to deal with perpetrators of such behaviour in a fair and proportionate way

- Offering practical support for those who feel they have been affected by inappropriate behaviour
- Ensuring ongoing review of this policy

Bullying, harassment and sexual harassment

Harassment

- Harassment is unwanted conduct related to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation which is intended or has the effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Harassment may take many forms including:
  - Conduct which is unwanted by the recipient and perceived as hostile or threatening
  - Conduct which gives rise to a hostile or threatening work environment
  - Conduct which creates an atmosphere in which it is feared that rejection or submission will be used as a basis for decisions which have an impact on the recipient at work such as an allocation of work or tenancy decision
- The following are examples of types of behaviour which may amount to harassment:
  - Racist, sexist, homophobic, transphobic or ageist jokes. Derogatory or stereotypical remarks about an ethnic or religious group, religion or belief, or gender
  - Disclosing or threatening to disclose someone's sexual orientation or gender identity against their wishes
  - Maliciously misgendering someone
  - Offensive emails, text messages or social media content
  - Mocking, mimicking or belittling a person's (past, present, or perceived) disability
  - Exclusion from social networking and activities or other forms of isolation
  - Physical assault

Sexual harassment

- Sexual harassment is unwanted or unwelcome behaviour of a sexual nature which violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for someone. It can be

sexual harassment if the behaviour has one of these effects even if it was not intended, or was intended to have one of these effects, even if it did not have that effect.

- Examples of sexual harassment include:
  - Unwelcome sexual advances
  - Unwanted or intrusive physical conduct, including touching, pinching, pushing and grabbing
  - Making sexual jokes, suggestive gestures or remarks
  - Asking intrusive questions about a person's private or sex life, or a person discussing their own sex life
  - Spreading rumours of a sexual nature about a person
  - Making promises in return for sexual favours
  - Unwanted or derogatory comments about a person's clothing, physical attributes, or appearance
  - Sending or displaying or showing pornographic content, inappropriate images, or inappropriate drawings
  - Sending emails, text messages, or other instant messages with material or content of a sexual nature
  - Unwanted social invitations for dates or physical intimacy
- Harassment and sexual harassment are unlawful under the Equality Act 2010, misconduct or gross misconduct for employees or a breach of the Bar Code of Conduct for barristers.
- Due to the obvious power imbalance, members of chambers and staff are prohibited from engaging in romantic or sexual relationships with any pupil, including 12-month pupils, 'third six'/probationary tenants, mini-pupils or those undertaking work experience.

Bullying

- Bullying is unwanted behaviour from a person or group that is either
  - Offensive, intimidating, malicious or insulting
  - An abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone
- Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or calls, at work or in other work-related situations and is not always be obvious or noticed by others.

- Examples of bullying at work include:
  - Constantly criticising someone's work
  - Overbearing or intimidating levels of supervision
  - Spreading malicious rumours about someone
  - Constantly putting someone down in meetings
  - Deliberately giving someone a heavier workload than everyone else
  - Deliberately or repeatedly excluding someone from team social events
  - Putting humiliating, offensive or threatening comments or photos on social media
- Bullying is misconduct or gross misconduct for employees and may breach the Bar Code of Conduct for barristers.
- Behaviour may be inappropriate whether or not it fulfils the definitions of bullying, harassment or sexual harassment set out above.
- Legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to someone in the course of their work or training, will not amount to bullying on their own.

Challenging bullying, harassment and sexual harassment

- Everyone who works at **[chambers]** is encouraged to take steps to stop, deter and prevent bullying, harassment and sexual harassment.
- Anyone who witnesses such behaviour directed at another, including hearing harassing or bullying comments, whether inside or outside chambers, is encouraged to challenge it rather than let it pass, unless to do so would put themselves at risk.
- If you feel you have been the target of bullying, harassment or sexual harassment, please consider whether you feel able to raise the problem informally with the person responsible, explaining to them that their behaviour is not welcome and the impact it had on you. If you don't feel comfortable raising it yourself, there are a number of ways to raise it within chambers.

Raising concerns

- Anyone who has been the target of bullying, harassment or sexual harassment, or who witnesses such behaviour directed at another, whether

inside or outside **[chambers]**, is encouraged to raise their concerns formally or informally within chambers in order that appropriate support can be provided, and appropriate, proportionate action taken.

- Anyone who learns of such behaviour by another should encourage those who witnessed or received the inappropriate behaviour to raise a concern formally or informally as set out below.
- Chambers recognises that it takes courage to raise a concern about another person's conduct, particularly where that person is in a position of seniority or authority, and aims to make it easy and as stress-free as possible to do so.

Raising a concern informally

- Concerns can be raised informally with any of:
  [Chambers should amend this list as appropriate]
  - Chambers' equality and diversity officer(s)
  - Wellbeing officers
  - A member of Chambers Management Committee
  - The head(s) of chambers
  - The head of pupillage
  - The senior clerk(s)
  - Chambers Director / CEO / COO
- Chambers will ensure that the persons referred to in paragraph 24 are given appropriate training for such purposes.
- Concerns can be raised in person, by phone or by email.
- Those wishing to raise a concern should not feel constrained as to which of these individuals they approach but should choose the individual they feel most comfortable talking to about their concern.
- Alternatively, concerns may be raised with any trusted member or staff. That person should, with the consent of the person raising the concern, seek advice from one of the individuals listed at paragraph 24, or from the Commissioner for Conduct, who will deal with the matter confidentially.
- Any person raising a concern informally is welcome to have a friend or colleague with them for discussions regarding their concern.
- Where a concern is raised informally with one of the individuals listed in paragraph 24, that person will:

- Respond promptly
- Ensure confidentiality
- Listen to and discuss the concern
- If appropriate, explain the relevant Equality and Diversity Policy, Grievance Policy and Disciplinary Policy and the relevant procedures
- Discuss what outcome the person raising the concern would ideally like
- Discuss which chambers' process, formal or informal, would be the most appropriate to achieve that outcome
- Explain what support chambers can provide to the person raising the concern, or anyone else who appears to have been affected by the conduct raised
- If appropriate, discuss the Bar Standards Board reporting requirement
- As much as possible, agree a way forward that the person raising the concern is happy with

- Possible outcomes from raising a concern informally could include, but are not limited to, the following examples:
  - Providing emotional support or guidance to any person who needs it.
  - The person seeking to resolve the matter meeting with the person whose behaviour was reported. In the conversation explaining how their behaviour was inappropriate, why it was unwelcome, and to inform them that if further similar incidents are reported the consequences might be a formal investigation.
  - Make arrangements so the person whose behaviour was reported, and the target of their alleged behaviour, are not clerked into the same cases or work together.
  - A change of pupil supervisor.
  - The person whose behaviour was reported agreeing not to attend chambers or Bar social functions for a period, or not to consume alcohol at such events.
  - The person whose behaviour was reported agreeing to attend a bullying, harassment and sexual harassment training course.
  - With the consent of the person who raised the concern, involving other persons listed in paragraph 24 for further advice, support or action.
  - Making a report to the Bar Standards Board or Commissioner for Conduct on behalf of the person who raised the concern or assisting them in making such a report.

- If the concern relates to the conduct of a judge, support the person who raised the concern to lodge a complaint with the Judicial Conduct Investigations Office.
- If the concern relates to the conduct of a solicitor, support the person who raised the concern to lodge a complaint with the Solicitors' Regulatory Authority.
- Support any person who needs it to access counselling or external advice
- Ongoing monitoring of the person whose behaviour caused the concern
- Ongoing support for anyone involved who may benefit from it

- Where the conduct in issue is particularly serious, including a repeated series of incidents or involving assault, the person seeking to resolve the matter shall encourage the person who raised the concern to raise a formal complaint.
- The person who raised the concern will be kept informed of the outcome of action taken, and a record will be kept for 7 years. **(This should be in-line with chambers' data retention policy).**

Raising a formal complaint

- Anyone who has been the target of bullying, harassment or sexual harassment, or who witnesses such behaviour, whether inside or outside **[chambers]**, may wish to raise a formal complaint with any of the individuals listed in paragraph 24.
- Formal complaints should be made under the applicable complaints or grievance procedure on a confidential basis (depending on the role of the complainant/the role of the person being complained about), subject to the requirement to report serious misconduct to the Bar Standards Board or Commissioner for Conduct. The individual raising the concern should make clear that the concern is being raised formally in line with this policy.
- As a general principle, the decision whether to progress a complaint is up to the complainant. However, chambers have a duty to protect all individuals working within chambers and may pursue the matter independently if it is considered appropriate to do so.
- Chambers will investigate formal complaints in a timely and confidential manner. The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint, where possible. Some

allegations may require formal investigation by an external party. The head(s) of chambers or **[chambers should add their most senior employee here]** depending on which policy the grievance is raised under, will appoint the panel or investigator.

- Where a formal complaint is made about an employee, chambers may consider suspending them on full pay or making temporary changes to working arrangements pending the outcome of the investigation.
- The investigator will meet with the alleged harasser or bully to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.
- Where a formal complaint is made about someone other than an employee (eg a member, contractor, client or agent), chambers will consider what action may be appropriate to protect the complainant or/and anyone involved pending the outcome of the investigation. The reasonable needs of chambers and the rights of the subject of the complaint will be taken into consideration. Where appropriate, chambers will attempt to discuss the matter with those involved.
- Chambers will consider any requests the complainant makes for changes to their working arrangements during the investigation. For example, employees may ask for changes to duties or working hours, and members may ask to be clerked by someone else, or to work remotely to avoid or minimise contact with the subject of their complaint.
- It may be necessary to interview witnesses to any of the incidents mentioned in the formal complaint. If so, the importance of confidentiality will be emphasised to them.

Action following the investigation after a formal complaint

- If there is a finding of bullying, harassment or sexual harassment, action will be taken to address it. Any action taken will be appropriate and proportionate. It may include an outcome listed in paragraph 31, and/or any sanction up to and including suspension or, in very serious cases, summary dismissal (where the person responsible for the conduct is an employee) or expulsion (where the person responsible for the conduct is a member).
- Where the person responsible for the conduct is a third party, appropriate action might include an outcome listed in paragraph 31, speaking or writing

to the person and/or their superior about their behaviour, or, in very serious cases, banning them from the premises or terminating a contract with them.

- Where chambers considers that a report should be made to the Bar Standards Board or Commissioner for Conduct, it will consider whether or not to await the outcome of that prior to taking any action, and if, so, whether to take any interim measures. Where chambers decides not to make a report to the Bar Standards Board or Commissioner for Conduct, no pressure shall be put on any person affected by the conduct in question not to make such a report themselves.
- The person who made the formal complaint and the person who the complaint is about will be notified of chambers' decision in writing.
- Providing false information, or otherwise acting in bad faith as part of an investigation, will be dealt with appropriately, and, in the case of employees, treated as misconduct.
- If the person who raised the complaint, or the person responding to the complaint is not satisfied with the outcome, they can appeal in line with the appeal process in the relevant grievance or disciplinary policy
- Any appeal will involve a review of the findings and conclusion of the formal process. The person raising the concern, the person the concern is about, and the investigator who made the determination will be entitled to make oral or written submissions as part of that appeal. The person hearing the appeal is able to take steps they feel is appropriate in order to consider and determine the appeal.

Protection and support for complainants and others

- Chambers is committed to ensuring that no-one who makes an allegation of bullying, harassment or sexual harassment in good faith should be subjected to any detriment as a result. Any victimisation of a complainant, witness or anyone involved in the investigation of a complaint will be viewed as a disciplinary matter. All persons shall be treated equally and fairly under this policy regardless of role or seniority or lack of it.
- Following any investigation, whatever its outcome, particular consideration shall be given to steps to reduce the risk of the conduct which caused concern occurring again.

Confidentiality and data protection

- Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a 'need to know' basis.
- Information about a complaint by or about an employee may be placed on the employee's personnel file. A complaint about a member will be retained for the duration of their membership or in line with chambers' data retention policy, along with a record of the outcome, any notes or other documents compiled during the process.
- A breach of confidentiality by any employee may give rise to disciplinary action.
- A breach of confidentiality by any member, pupil, mini-pupil or others working at chambers will be dealt with by the Management Committee through the relevant procedure.
- A copy of this policy is provided to all those for who chambers constitutes a working environment, including members of chambers, staff, pupils, mini-pupils, squatters, clerks,, temporary workers, those who provide services to chambers such as cleaners, accountants and IT consultants, and work experience students.

Pupils

- Pupils will meet with the [equality and diversity officer/wellbeing officer] at their induction session before starting pupillage and will meet them again during their first 6 months. Thereafter the [equality and diversity officer/wellbeing officer] shall make contact with the pupil occasionally to offer advice and support.
- At their induction session or at another appropriate time around the start of their pupillage, pupils shall be provided with a copy of this policy, contact details for the relevant [equality and diversity officer/wellbeing officer] and details how to access the anonymous advice system. This policy will be explained to them, and they will be invited to participate in a private and

confidential question and answer session in order to give them the opportunity to ask any questions and discuss chambers practices in a comfortable environment.

- Where a pupil has any concern about any perceived bullying, harassment or sexual harassment they may raise it informally with their [pupil supervisor or the head of pupillage], or any one of the people listed in paragraph 24. Alternatively, they may use the formal process as set out above.
- Where their concern relates to conduct by their pupil supervisor, consideration will be immediately given if it is appropriate to change pupil supervisor either temporarily or permanently.
- If any pupil has a concern and does not feel comfortable raising it via the procedures set out above, they are invited to make a record on **Talk to Spot**– they can do so anonymously if they wish and receive confidential advice and guidance from the Bar Council.
- Pupils have the opportunity shortly after taking tenancy, to raise any concerns regarding bullying, harassment or sexual harassment which took place during their pupillage which they did not feel able to raise at the time.

Judicial conduct

- Where there is concern regarding the conduct of a judge, chambers can provide advice and support from an **[equality and diversity officer/named role]** through the informal process as set out above. Alternatively, advice can be secured from the Bar Council's ethics enquiries helpline 020 7611 1307 or Ethics@barcouncil.org.uk, or via **Talk to Spot**. Where appropriate, a formal complaint should be made to the Judicial Conduct Investigations Office. Chambers can provide advice and support in relation to this.

Useful resources

- Confidential advice in relation to harassment, bullying and sexual harassment can be sought at any time from the Commissioner for Conduct's team via Talk to Spot. The team is based at the Bar Council and can provide you with support and advice. You don't need to give your name, the names of anyone involved, or identify your chambers, unless you are comfortable doing so. **https://www.barcouncil.org.uk/support-for-barristers/equality-diversity-and-inclusion/talk-to-spot.html**

- Victim Support offer emotional support to anyone making or considering making a report to the BSB: **victimsupport.org.uk/bar-standards-board-independent-support-service**
- LawCare – free and confidential helpline for lawyers, providing wellbeing and mental health support: 0800 279 6888 or **lawcare.org.uk**
- Wellbeing at the Bar – resources, advice and support for barristers, pupils and chambers professionals **wellbeingatthebar.org.uk**
- Bar Standards Board guidance on reporting requirements
- **https://www.barstandardsboard.org.uk/for-barristers/reporting-serious-misconduct.html**
- The Bar Council ethical enquiries helpline 0207 611 1426 or **Ethics@barcouncil.org.uk**
- Bar Standards Board information for those reporting a concern **https://www.barstandardsboard.org.uk/for-the-public/problems-with-a-barrister/reporting-a-concern.html** or call 0207 6111 444
- Judicial Conduct Investigations Office – complaints should be lodged within 3 months of the incident. Please check online for up-to-date websites and telephone numbers. **http://judicialconduct.judiciary.gov.uk/making-a-complaint**
- This policy was adopted on **[date]** and will be reviewed every two years.

[relevant grievance and disciplinary procedures should be added as appendix to this policy or there should be a link to them so complainants and respondents know which process will be followed]

Template: grievance procedure for members

Download editable version.

Scope

This document, and the procedure which it describes, covers any complaint, grievance or dispute including, but not limited to, complaints of discrimination, bullying, harassment, sexual harassment and complaints about the distribution of work.

The grievance procedure is applicable to all members and pupils of chambers who want to raise a complaint or concern about anyone or anything within chambers. It should be noted that there is a separate Staff Grievance Procedure if a member of staff has a grievance. Mini-pupils, clients and other contractors or visitors should use chambers' complaints policy to raise a concern or complaint. **[Chambers should amend to ensure the policies listed above are current and the correct policy names are used]**

Statement of policy

- [Chambers] is committed to providing a working environment in which all individuals including members, pupils, mini-pupils, employees, clients and the public are treated with dignity, respect and fairness.
- No one will be victimised or suffer a detriment because they raise a complaint or grievance in good faith under this procedure.
- All procedures, as far as practicable and subject to any requirement to disclose serious misconduct to the Bar Standards Board or Commissioner for Conduct, will be confidential.
- Complaints related to bullying, harassment and sexual harassment will be dealt with under the process below, in conjunction with the requirements set out in the Anti-Bullying, Harassment and Sexual Harassment Policy.

Informal resolution

- Grievances can often be resolved most effectively through informal methods. Individuals with grievances are encouraged to consider whether their grievance can be addressed informally, either directly with the person or

persons concerned, or with the assistance from other members of chambers or staff.

- The following are suggested as potentially appropriate people to approach: **[Chambers should amend this list as appropriate]**
  - Chambers equality and diversity officer(s)
  - Wellbeing officers
  - A member of Chambers Management Committee
  - The head(s) of chambers
  - The senior clerk
  - Practice manager
- For grievances relating to chambers staff, approach [chambers should add the name and title of the appropriate senior member of staff].
- Where a grievance is raised informally with one of the individuals listed above, that person will:
  - Respond promptly
  - Ensure confidentiality
  - Listen to and discuss the grievance
  - Explain relevant procedures
  - Discuss what outcome the person raising the grievance would ideally like
  - Discuss which chambers' process, formal or informal, would be the most appropriate to achieve that outcome
  - Explain what support chambers can provide to the person raising the grievance, or anyone else who appears to have been affected by the conduct
  - If appropriate, discuss the Bar Standards Board reporting requirement
  - As much as possible, agree a way forward that the person raising the grievance is happy with
- Possible outcomes from raising a grievance informally could include, but are not limited to, the following examples:
  - Providing emotional support or guidance to any person who needs it
  - Supporting the parties involved to resolve the matter
  - Making arrangements to limit contact between the parties involved
  - The person complained about not attending or not consuming alcohol at chambers events
  - Additional training for individuals or groups in chambers
  - Support in accessing counselling or external advice

- Ongoing monitoring of the situation
- Ongoing support for anyone involved who may benefit from it

- A grievance being dealt with informally can be escalated to a formal grievance process at the request of the complainant or chambers.

Formal procedure

- Members and pupils can raise a formal grievance under this policy about anyone or anything which happens in relation to their connection to chambers.
  - If the complaint is about another member, that member will be subject to the procedure set out in the members disciplinary procedure.
  - If the complaint is about a pupil, they will be subject to the procedure set out in the pupillage handbook.
  - If the complaint is about a member of staff, they will be subject to the procedure set out in the staff handbook disciplinary procedure.
- All formal complaints under this procedure should be made by email to the head of chambers **[chambers should amend as appropriate and if wanted name the person. This should be a senior member or CEO]**. They will appoint a panel comprising at least two members of chambers to deal with the complaint, and inform the complainant of the membership of the panel within 5 working days of the complaint.
- If the complainant thinks there is an inappropriate choice of panel member, for example due to a conflict of interest, they can approach the head of chambers to appoint a replacement panel member.
- If the complaint is about the head of chambers, a complaint should be raised with [**add appropriate role equality and diversity officer or deputy head of chambers**]
- A complaint should be made as soon as reasonably possible, and generally within 6 months of the act being complained of. Chambers recognises, however, that it may be difficult for a complainant to raise a complaint within this time frame, particularly where the complaint concerns incidents of sexual harassment, bullying or discrimination.
- Complaints will be dealt with promptly. The panel will organise a meeting with the complainant to discuss the grievance within 12 working days of receipt of the complaint, unless there are good reasons for delay. The complainant may be accompanied at the meeting by a colleague or friend. The

members appointed to deal with the complaint should consider whether the meeting should be adjourned for any investigation to be conducted. Any adjournment will be for a reasonable time to enable the investigation to be conducted. The investigation must be carried out fairly.

- Where facts are disputed the investigation will need to be undertaken in a similar way to that discussed above.
- The panel will assess the complaint and deliver a written response to the complainant, identifying any action which is intended to be taken to resolve the grievance. The response will be delivered within 21 days of completion of the meeting, unless there are good reasons for delay. A good reason for a delay would be the need to have fully investigated the grievance leading to an investigatory report, following which the response to the grievance can be determined.
- The complaint will be kept confidential by those investigating it as far as reasonably required in order to carry out the investigation and subject to any requirement to disclose serious misconduct to the Bar Standards Board or Commissioner for Conduct.
- The panel handling the complaint will decide, if relevant, which disciplinary procedure is relevant.
- If the complaint is made against a member of chambers, while the complaint is being investigated or assessed, the panel may require that member to make appropriate, pragmatic and proportionate adjustments to their working arrangements. If the complaint is against a member of staff, the panel may require they work from home or are suspended until the conclusion of the investigation. See the anti-bullying and harassment policy and the relevant disciplinary procedure for a list of adjustments available to the panel.
- If a complaint is substantiated, appropriate steps will be taken to remedy the problem. Resolutions which require the participation of the complainant will only be recommended with the complainant's agreement. Changes to working arrangements which might unreasonably disadvantage the complainant will be avoided, because they might amount to victimisation. More information about remedial actions in respect of complaints about bullying and harassment can be found in the anti-bullying and harassment policy.

- The complainant is entitled to appeal if they feel their grievance has not been satisfactorily resolved and will be informed of that right by the panel. A complainant who wishes to appeal must inform the head of chambers in writing without unreasonable delay, (within 5 working days of receiving the outcome) **[Chambers should amend as appropriate]** stating the grounds for their appeal.
- Any such appeal will be dealt with impartially by an appeals panel appointed by the head of chambers who has not had any dealings with the complaint. In some cases, it may not be possible to appoint an appropriately experienced or independent appeals panel, and in this instance the head of chambers may, in consultation with the Management Committee, appoint an external investigator to hear the appeal.
- The complainant may appeal the make-up of the appeals panel, in writing to the head of chambers stating the grounds for their appeal. The decision of the head of chambers is final.
- The decision of the appeals panel is final.
- A confidential record will be kept of all complaints and of any meetings or investigations in connection. Records will be kept for 7 years **[This should be in-line with chambers' data retention policy]**.
- A brief report on all formal complaints and on the findings of any investigations will be made to the head of chambers.
- Grievances responses can have a range of consequences including the triggering of disciplinary procedures.

External arbitration or mediation

- It is acknowledged that chambers is a small organisation and many members have known each other for long periods of time. If, in the view of the complainant or the Head of chambers, it will not be possible to deal with the complaint in a manner unaffected by conflicts of interest, the **Bar Council's appointments service** can be approached for a mediator, arbitrator or expert (as appropriate). Where the barrister requesting the service has not subscribed to the Bar Representation Fee, chambers will pay the finding fee (currently £500) for this service. Where it is agreed by the head of chambers that an external expert is required, chambers will meet the cost of this.

Further sources of information and assistance

- Barristers may approach the **Bar Council's appointments service** to resolve disputes between themselves and chambers or another member in chambers. This service is free to Bar Representation Fee subscribers, or £500 to non-subscribers.
- Barristers who are the subject of complaints or disciplinary procedures may seek advice from the **Bar complaints advisory scheme**.
- Barristers can use the **Bar's assistance programme** for confidential advice and support including access to counselling

Useful resources

- Confidential advice in relation to bullying, harassment and sexual harassment can be sought at any time from the Commissioner for Conduct's team via **Talk to Spot**. They will provide you with support, advice and discuss your options. You do not give your name, the names of anyone involved, or identify your chambers, unless you are comfortable doing so. Support is also available at:
- LawCare – free and confidential helpline for lawyers, providing wellbeing and mental health support **lawcare.org.uk** or 0800 279 6888
- Wellbeing at the Bar – resources , advice and support for barristers and chambers professionals: **wellbeingatthebar.org.uk**
- The Bar Council's ethical enquiries helpline – barristers unsure about their ethical obligations can call 0207 611 1426 or email **ethics@barcouncil.org.uk**
- For more information about how the Bar Standards Board deals with bullying and harassment call their information line 0207 6111 444 or visit **https://www.barstandardsboard.org.uk/for-barristers/bullying-and-harassment.html**
- Judicial Conduct Investigations Office – complaints should be lodged within 3 months of the incident. **Complaints.judicialconduct.gov.uk**

You may need to check online for up-to-date web addresses and telephone numbers.

This policy was adopted on **[date]** and will be reviewed every 2 years.

Template: disciplinary procedure for members

Scope

- This document, and the procedure which it describes, covers any complaint, grievance or dispute about members of chambers, including but not limited to, complaints of unfair discrimination, bullying, harassment or sexual harassment.
- The disciplinary procedure is applicable to complaints made against a member of chambers. Pupils of chambers are covered in the pupillage policy and chambers' staff are covered by the staff disciplinary policy.
- This procedure details the process by which a grievance, raised under any relevant grievance policy, against a member is dealt with.

Statement of policy

- Chambers are committed to providing a working environment in which all individuals including members, pupils, mini-pupils, employees, clients and the public are treated with dignity, respect and fairness.
- All procedures, as far as practicable and subject to any requirement to disclose serious misconduct to the Bar Standards Board, will be confidential.
- Complaints related to bullying and harassment will be dealt with under the process below, in conjunction with the requirements set out in the anti-bullying and harassment policy.
- Informal action will be considered, where appropriate, to resolve problems

Informal resolution

- Issues can often be resolved most effectively through informal methods.
- If an informal complaint is raised about a member the following people may bring the matter to the attention of a member, depending on the nature of the complaint:

  [Amend this list as appropriate]
  - Wellbeing officer(s),
  - Equality and diversity officer(s),
  - A member of the Management Committee
  - Senior clerk or practice manager

- Head(s) of chambers.

- An issue which is being dealt with informally can be escalated to a formal disciplinary process at the request of the complainant or chambers.
- If an issue has been raised informally, possible outcomes could include, but are not limited to, the following examples:
  - Agreed resolution of the issue raised
  - A facilitated meeting with the person who raised the complaint allowing them to advise how the behaviour was inappropriate, to explain why it was unwelcomed and the consequences of it happening again
  - Arrangements to minimise contact between the parties involved including:
    - Being clerked separately
    - Agreeing not to attend chambers or Bar social functions for a period
    - Agreeing not to consume alcohol at chambers or Bar social events
    - Agreeing to work remotely
- The person who the complaint was made about agreeing to attend a relevant training course
- The complainant or a member of chambers making a report of serious misconduct to the Bar Standards Board, or other relevant regulator
- Ongoing monitoring
- 12. Where the conduct in issue is particularly serious, including a series of incidents or including any incident involving any form of assault, chambers may conclude the matter should be dealt with via the formal disciplinary procedure.

Formal resolution

- A disciplinary investigation will be opened by the head of chambers **[or other appropriate person please add/change]** in response to formal complaint made against a member or, in the absence of a complaint, a matter being raised about a member which could constitute misconduct.
- The head of chambers will appoint a panel comprising at least two members of chambers to deal with the complaint and inform the respondent of the membership of the panel within 5 working days of the complaint.

- If the respondent thinks there is an inappropriate choice of panel member, for example due to a conflict of interest, they can approach the head of chambers to appoint a replacement panel member.
- If the complaint is about the head of chambers, the Management Committee will appoint another suitable member to oversee the process and appoint the panel.
- Complaints will be dealt with promptly. The panel will organise a meeting with the member to discuss the complaint within 12 working days of receipt of the complaint, unless there are good reasons for delay. The member may be accompanied at the meeting by a representative, friend or work colleague. The panel should consider whether the meeting should be adjourned for any investigation to be conducted. Any such adjournment will be for a reasonable time to enable the investigation to be conducted. The investigation must be carried out fairly.
- The panel will assess the complaint and deliver a written response to the member, identifying any action which is intended to be taken to resolve the issue. The response will be delivered within 21 days of completion of the meeting, unless there are good reasons for delay.
- The complaint will be kept confidential by those investigating it, as far as reasonably required in order to carry out the investigation, and subject to any requirement to disclose serious misconduct to the Bar Standards Board.
- While that complaint is being investigated or assessed the panel may require that the member make appropriate, pragmatic and proportionate adjustments to their working arrangements. See the anti-bullying and harassment policy for a list of adjustments available to the panel.
- If, following an investigation, the disciplinary panel consider that the complaint has been substantiated and disciplinary action may be required, a meeting will take place. In good time before the meeting, the respondent will receive in writing:
    - Details of the alleged misconduct
    - relevant evidence from the investigation
    - any other information to be covered
    - the date, time and location of the meeting
    - information on the right to be accompanied to the meeting by an appropriate companion or representative

- A list of the possible outcomes

- At the meeting the respondent will have the opportunity to answer the allegations, provide relevant evidence and any mitigations and choose to have a representative speak on their behalf.
- Following the meeting, if a complaint is found to be substantiated, appropriate steps will be taken to remedy the problem. The panel may use a range of practical steps, including but not limited to:
  - A written warning kept on file
  - The respondent being asked to attend mediation with the complainant
  - The respondent sending a letter of apology to the complainant
  - The respondent attending training course or intervention
  - The respondent being suspended from chambers activities (for example events, socials, meetings etc), or agreeing not to drink alcohol at such events
  - The respondent being asked to work from home or outside chambers
  - The respondent being temporary suspended from chambers
  - The respondent abstaining from exercising voting rights at chambers' meetings
  - Consideration of termination of the respondent's membership

More information about remedial actions in respect of complaints about bullying and harassment can be found in the anti-bullying and harassment policy.

- In the event that the panel consider termination of membership is proportionate action after a disciplinary investigation, the recommendation will be made to the Management Committee which will follow the rules for termination detailed in chambers' constitution.
- The respondent is entitled to appeal the finding, remedy or sanction arrived at following an investigation. A member who wishes to appeal must inform the head of chambers in writing without unreasonable delay, stating the grounds for their appeal. If the panel can't agree the issue would be referred to an appeal panel to consider.
- Any appeal will be dealt with impartially and by an appeal panel appointed by the head of chambers in line with chambers' constitution which will not include anyone who originally dealt with the complaint. If the complainant, or respondent, thinks there is an inappropriate choice of panel member, for example due to a conflict of interest, they can approach the head of chambers to appoint a replacement panel member, or an external expert.

- The head of chambers may decide it is appropriate to appoint an external expert to carry out an appeal, or to chair an appeal panel, depending on the seriousness of the issue being investigated and possible remedy or outcome.
- A confidential record will be kept of all complaints and of any meetings or investigations in connection and will be retained for 7 years. **[this should align with chambers' data retention policy]**
- A brief report on all formal complaints and on the findings of any investigations will be made to the head of chambers.

External arbitration or mediation

- It is acknowledged that chambers is a small organisation, and many members have known each other for long periods of time. If, in the view of the complainant, respondent or the head of chambers, it will not be possible to deal with the complaint unaffected by conflicts of interest, the **Bar Council's appointments service** will be approached for a mediator, arbitrator or expert (as appropriate). Where the barrister concerned has not subscribed to the Bar Representation Fee, chambers will pay the fee (currently £500) for this service.

Further sources of information and assistance

- Barristers may approach the **Bar Council's appointments service** to resolve disputes between themselves and chambers or another member in chambers. This service is free to Bar Representation Fee subscribers, or £500 to non-subscribers.
- Barristers who are the subject of complaints or disciplinary procedures may seek advice from the **Bar complaints advisory scheme**.
- Support and counselling are provided by associations and groups for women lawyers, members of minority ethnic groups, disabled people, the LGBTQ+ community, and pupils. Members can obtain the contact details for these organisations from the Bar Council's equality and diversity team **equality@barcouncil.org.uk**.
- Confidential advice is available from the equality and diversity team at the Bar Council **equality@barcouncil.org.uk**.

Useful resources

- Confidential advice in relation to bullying, harassment and sexual harassment can be sought at any time from Commissioner for Conduct's team via **Talk to Spot** . They will provide you with support and advice and discuss your options. You don't need to give your name, the names of anyone involved, or identify your chambers unless you are comfortable doing so. Support is also available at:
  - **LawCare** – free and confidential helpline for lawyers, providing wellbeing and mental health support: 0800 279 6888 or **lawcare.org.uk**
  - **Wellbeing at the Bar –** resources, sources of advice and support for barristers including access to counselling: **www.wellbeingatthebar.org.uk**
  - **Bar Standards Board guidance on reporting requirements** **www.barstandardsboard.org.uk/for-barristers/reporting-serious-misconduct.html**
  - **Bar Standards Board serious misconduct reporting form** **https://www.barstandardsboard.org.uk/ask-us-a-question-or-report-a-concern-landing.html**
  - **The Bar Council's ethical enquiries helpline** – barristers unsure about their ethical obligations can call 0207 611 1426 or email **Ethics@barcouncil.org.uk**
  - **For more information about how the Bar Standards Board** deals with bullying and harassment, call their information line 0207 6111 444 or visit **https://www.barstandardsboard.org.uk/for-barristers/bullying-and-harassment.html**

This policy was adopted on **[date]** and will be reviewed every two years.

Template: model clauses for chambers' constitutions

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There is no model constitution for chambers and each constitution will be unique. Chambers will also have different views on the appropriate approach to issues. The model clauses below are provided as guidance but will need to be tailored to the chambers' constitution, structure and chambers' own preferences.
All references to members in these model clauses should be extended to include other categories of members and door tenants, as applicable.

> The clauses on suspension, expulsion and disclosure suggested here go beyond redress for bullying, harassment and sexual harassment, but are included in this guide as sanctions for misconduct in these areas may include suspension, expulsion and disclosure.

Disciplinary and Appeals Committee (s)

- The head of chambers shall establish a Disciplinary Panel or Committee which is responsible for dealing with complaints made against members and performing the functions set out in this constitution and the members' disciplinary policy[16].
- The head of chambers shall establish an appeals panel or committee which shall be responsible for dealing with appeals against decisions of the Disciplinary Panel or Committee and performing the functions set out in this constitution and the members' disciplinary policy.
- The head of chambers shall determine:
  - The terms of reference of the Disciplinary and Appeals Panel or Committee(s) The composition of the Disciplinary Panel or Committee and the term of office of its members provided that:
    - A member of the **[Management Committee]** or a member nominated by the Management Committee shall always be a member of, and chair, the panel or committee

16 Members' disciplinary policy is the disciplinary policy applicable to members adopted by the Management Committee in accordance with this constitution, as amended from time to time.

        - The panel or committee shall comprise of one or more other members or employees of chambers who are not members of the Management Committee, and
        - If the head of chambers is the subject of the complaint or reported behaviour to be considered by the Disciplinary Panel or Committee, they shall not participate in the process and the Management Committee may, if they consider appropriate, nominate another member or employee of chambers to replace them for these purposes.
- The composition of the Appeals Panel or Committee and the term of office of its members provided that:
    - The head of chambers shall always be a member of, and chair, the panel or committee;
    - The panel or committee shall comprise of one or more other members or employees of chambers who are not members of the Management Committee, and
    - If the head of chambers is the subject of the complaint or reported behaviour to be considered by the Appeals Panel or Committee the Management Committee may, if they consider appropriate, nominate another member or employee of chambers to replace them for these purposes.
- The procedure for nominating and/or electing members of the Disciplinary and Appeals Committee(s) and terminating membership of the committee.
- The Disciplinary and Appeals Panel or Committee(s) shall meet as often as they consider necessary for the proper discharge of their responsibilities. They shall act in accordance with their terms of reference and any rules of procedure which may be specified by the head of chambers and shall otherwise determine their own rules of procedure.

Complaints and grievances

- Any member, pupil or employee of chambers may make a complaint in relation to the behaviour of a member in line with chambers' policies. All complaints shall be dealt with in accordance with the relevant policy.
- Each member agrees to comply with the Members' Disciplinary Policy, co-operate with the investigations and proceedings of the Disciplinary Panel or Committee and Appeals Panel or Committee, and comply with all decisions

on sanctions imposed by the Disciplinary Panel or Committee and Appeals Panel or Committee]. A material or persistent failure to do so will constitute gross misconduct.

- The sanctions which the Disciplinary Panel or /Committee may impose in the event of a finding of misconduct or gross misconduct are as follows:
  - Recommendations about future conduct
  - A requirement to undertake appropriate training
  - A written warning, effective for a period specified in the warning
  - A final written warning, effective for a period specified in the warning
  - A fine not exceeding £ [**insert amount here**] or such other amount as may be approved from time-to-time by ordinary resolution of the members
  - Suspending or varying the rights of a member, including in the manner provided for in clause 4.1
  - In the case of a finding of gross misconduct, or a further act of misconduct or gross misconduct during the period in which a final written warning is effective, expulsion from chambers in accordance with clause 3
  - Any combination of the above or another sanction as the Disciplinary Panel or Committee considers appropriate in the circumstances.
- The respondent or complainant may appeal against a decision of the Disciplinary Panel or Committee to the **[Management Committee/Appeals Panel or Committee]** in accordance with the Members' Disciplinary Policy. The **[Management Committee/Appeals Panel or Committee]** shall conduct the appeals process in accordance with the Members' Disciplinary Policy. Following the appeal hearing the **[Management Committee/Appeals Panel or Committee]** may uphold or revoke the original decision or substitute a different sanction provided for in this Constitution.

Expulsion

- A member may be expelled from chambers in accordance with the following provisions of this clause 3.
- The Management Committee may serve a written expulsion notice on a member expelling them as a member, if:
  - The Disciplinary Panel or Committee has determined that expulsion is the appropriate sanction for an act of misconduct or gross misconduct by the expelled member and either the expelled member has not appealed

against that determination within the time limits specified in the members' disciplinary policy or the sanction has been upheld on appeal.

or

- The **[Appeals Panel or Committee or Management Committee]** has determined that expulsion is the appropriate sanction for an act of misconduct or gross misconduct by the expelled member, in substitution for the original sanction imposed on appeal from a decision of the Disciplinary Panel or /Committee
- **[Other grounds for expulsion to be inserted]**

- The expulsion of a member shall take effect **[7]** days after service of the expulsion notice or such later date as specified in the expulsion notice.
- The Disciplinary Panel or Committee may exercise any or all of its rights under clause 4 to suspend or vary the membership rights of the expelled member following the service of an expulsion notice on the expelled member.

Suspension

- The Disciplinary Panel or Committee may suspend or vary the rights of a member under this constitution in a manner and duration as it considers necessary or desirable in order to protect the interests of chambers, its members, pupils, employees, clients or contacts. Steps may include, but is not limited to:
  - Excluding the restricted member from, or limiting their access to, chambers' premises
  - Restrictions on the restricted member's practise through chambers including clerking the restricted member from their home
  - Prohibiting the restricted member from attending chambers' events
  - Prohibiting the restricted member from contacting or dealing with other members, pupils, employees, clients, suppliers or contacts of chambers
  - Restricting the restricted member's access to any confidential information of chambers or its members
- In exercising their powers under clause 4.1, the Disciplinary Panel or Committee shall ensure that the restrictions on the rights of the restricted member are proportionate and do no more than is reasonably necessary to safeguard others or the interests of chambers.

Disclosure obligations and confidentiality

- The Management Committee shall ensure that, prior to admission as a member, any applicant for tenancy is required to disclose whether they are, or have been, subject to any disciplinary investigations or findings whether by any of their previous chambers, Inn, Bar Standards Board, Judicial Conduct Investigations Office or other regulators or have any unspent criminal convictions.
- A member must promptly notify the head of chambers upon becoming aware that they are the subject of any disciplinary investigations, findings, investigation in relation to the commission of a criminal offence, or have been arrested or charged with a criminal offence (excluding an offence under any road traffic legislation in the UK or elsewhere for which the maximum penalty is a fine or non-custodial penalty).
- The Management Committee may require members to sign an annual declaration confirming that there are no circumstances which would require them to make a declaration under clause 5.2.
- The making of a false declaration pursuant to clauses 5.1 or 5.3 by an applicant or member, or the failure by a member to comply with their notification obligations under clause 5.2, will constitute grounds for expulsion in accordance with clauses 3.2.1 or 3.2.2 and may result in the Management Committee referring the member or applicant concerned to the Bar Standards Board.
- Each member undertakes that they shall keep confidential and not disclose or use for any purpose any information which they obtain or become aware of in connection with complaints, investigations or disciplinary matters relating to chambers, its members, pupils or employees. Nothing in this clause shall prevent a member from using or disclosing any such information to the extent required in order to participate in the disciplinary process, comply with the members' disciplinary policy, perform any function conferred on them in accordance with this constitution or the members' disciplinary policy or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority[17].

17 This is a standalone clause governing the confidentiality of information relating to disciplinary matters. This may not be required if the constitution already contains a more general confidentiality clause.

- No member shall sign or authorise any employee of chambers to sign, a non-disclosure agreement on behalf of chambers which prohibits the disclosure of any actual or alleged bullying, harassment or sexual harassment by a member, pupil, employee, consultant or agent of chambers. Any breach by a member of this clause will constitute misconduct.

Pupils, mini-pupils and those undertaking work experience

It is prohibited for any member to have sexual relations with a pupil, mini-pupil or any person undertaking work experience with chambers. Any breach by a member of this clause will constitute gross misconduct[18].

With thanks to Scott Leonard, Partner, Corporate & Commercial Department, Bates Wells for assistance in drafting.
April 2026

[18] The employment contracts and/or disciplinary policies for chambers' employees should incorporate prohibitions in equivalent terms to those contained in clause 6 above and provide for a breach to constitute misconduct/gross misconduct (as applicable).

Template: risk assessment checklist

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We include some suggestions (in blue) for inclusion in the risk assessment. Each chambers will have different issues and must consider their own specific risks and the most effective mitigation for each.

Questions to consider	**Who is at risk** • Pupils • Junior employees • Senior employees • Junior members • Senior members	**Level of risk** • Low • Medium • High	**Action to prevent or mitigate**
Do people have to work in chambers after hours?	Pupils – they are more vulnerable to harassment and under pressure to deliver work on time. Junior staff and junior members – they have less power or control over their work.	Medium	▪ **Security in chambers checked and improved (panic buttons, CCTV etc)** ▪ **Provision of training on recognising and reporting harassment**

Do people have to work alone or in isolated workplaces?	As above. Pupils who may spend time alone with senior members.	Medium	▪ **Ensuring there is always more than one person in chambers, particularly late at night** ▪ **Treat pupils as a group – actively discourage 1:1 socialising**
Are there instances where people work alone with third parties (clients, contractors etc)?	Members who work with solicitors or direct access clients. Employees who may have to work with contractors/suppliers.	Low	▪ **Clear code of conduct** ▪ **Ensuring those who are most vulnerable aren't left alone** ▪ **Ensuring third parties are notified that harassment is unlawful and will not be tolerated**
Is significant work done outside chambers – in court, at the Inns, in client's office or overseas?	Pupils and members who travel to remote courts. Employees or members who are required to travel internationally.	Medium	▪ **Support to make safe(r) travel arrangements** ▪ **Where possible deter solo travel after dark**
Is chambers a high-pressure, competitive or stressful work environment?	Junior employees, pupils and members are more vulnerable to harassment where power imbalances and work pressure co-exist.	High	▪ **Robust anti-harassment policy** ▪ **Effective training for senior members and employees which highlights examples of potential abuse of power** ▪ **Awareness of reporting and pathways to support those who make a report** ▪ **Zero-tolerance approach by chambers** ▪ **Bystander intervention encouraged**

Is alcohol consumed at events in or outside of chambers?	Pupils, junior members, junior employees	High	▪ **Senior members and senior employees agree to ensure junior colleagues aren't left alone** ▪ **Known risky individuals (client/member/other) are watched and interventions agreed to prevent harassment** ▪ **Employees and members supported to get home safely** ▪ **After-parties properly supervised** ▪ **Appropriate security put in place**
Are people expected to socialise with third parties at events or conferences etc?	Pupils, junior members, junior employees	High	▪ **No one sent out alone to events** ▪ **Effective response to reports**
Is there a culture of banter or casual sexism which is hard to challenge?	All	High	▪ **Culture change exercises** ▪ **Promotion of anti-harassment policy** ▪ **Awareness raising activity to support identification of sexual harassment and send zero-tolerance message** ▪ **Robust and effective response to reports or issues raised informally**

Templates: mini-pupillage policy

Download editable version.

About this policy

- This policy governs mini-pupillages or work experience with a barrister at [name of chambers] and outlines the various avenues and processes for attaining mini-pupillages.
- The [name of relevant chambers Management Committee] reserves the right to amend this policy at any time.
- This policy will be reviewed on an annual basis by [name of relevant person].
- This policy applies to all members, associate members, door tenants, probationary tenants, pupils, staff members, consultants and agency workers.
- Any member acting outside of this policy may be referred to the [name of relevant committee]. Any staff member acting outside of this policy may be dealt with under the staff disciplinary procedure.

Mini-pupillage or work experience with a barrister

- A mini-pupillage is a short period of work experience spent within chambers. This provides insight into the career of a barrister by shadowing members, observing court, reading case papers, and completing research or drafting tasks.
- **[Name of chambers]** offers mini-pupillage opportunities to provide aspiring barristers or those considering a career the legal profession an opportunity to experience life at the Bar of England and Wales, and the work and ethos of **[name of chambers].**
- Highly talented candidates from any educational background are welcome, regardless of nationality, ethnicity, religion, age, gender, sexuality, health, disability, neurodiversity, family or other circumstances. They must apply through the avenues described in this policy.
- The [name of relevant committee] is responsible for approving mechanisms by which mini-pupillages can be obtained. This includes agreeing to accept mini-pupillages from external schemes and determining the details of

chambers-administered advocacy competitions. [Name of those responsible is/are], responsible for determining whether they wish to accept applications to chambers or to any practice area, taking into account capacity of chambers and any practice area.

- To be eligible for mini-pupillage, applicants must **[optional if you want age limits add: 'be aged [18/16 years old or over at the time of their mini-pupillage and]** be considering a career in the legal profession. Applicants must not have previously undertaken a mini-pupillage with **[name of chambers]**.

[Optional: if you do allow under 18s add 'For applicants under the age of 18, a parent or legal guardian must provide consent and sign a confidentiality agreement for their child to participate in this programme']

- Applicants must be able to attend a mini-pupillage based in **[location]** within 12-months of being notified of their successful application. Support with associated travel costs may be considered by **[the name of relevant committee or person]** in appropriate circumstances.
- All mini-pupils **[or their parents/legal guardians, if they are under age 18]** are required to sign a confidentiality agreement which includes a restriction on the content of posts on social media.
- Our aim is to enable our process to be fair and equitable. We wish to encourage applicants from all backgrounds, all educational establishments, and all ages **[add if you have age limits '(over 18+)'].**
- The **[relevant committee]** shall advise staff of any mini-pupillages obtained via competitions and schemes. **[Clerks/Practice managers]** will be responsible for arranging suitable mini-pupillages for these individuals.

[Optional additional clause: Mini-pupillages are not assessed and will not form part of the consideration for recruitment as a pupil or tenant].

Competitions and schemes

Mini-pupillages can be obtained in one of three ways: competitions, schemes, or via application to chambers.

- Competition. [Detail any competition, process for application, method of evaluation (including eg shortlisting or interview), timeline and number of mini-pupillages offered]
- Schemes. **[Detail any schemes where chambers is a partner (eg Bridging the Bar; 10,000 Black Interns). Specify the number of places offered via these schemes and the process for determining the number of places offered].**
- Application to chambers
  - **[name of chambers]** may offer mini-pupillages by way of application to chambers. **[Specify how many mini-pupillages may be offered within a 12-month period, outline the basis (eg operational capacity) and process for offering such mini-pupillages]**.
  - **[Optional: Build in a process for [name of relevant committee] to request either a fixed-number or percentage of opportunities for those who are typically underrepresented at the Bar, as further described at section 4 of this policy].**
  - Any mini-pupillages offered **by [chambers]** shall be **[outline process for securing an opportunity eg advertised on the website and other promotional channels to ensure transparency and encourage a wide range of applicants. Applications to chambers shall be required to submit a CV and covering letter along with additional information which must be outlined on the website]**.
  - All applications shall be assessed on merit.
  - **[Chambers or relevant practice area])** shall be responsible for the placement and administration of the mini-pupillage, with support from **[include who will provide admin and other support].**

Promoting access to the Bar

- **[Chambers]** actively seek to promote access to the profession, and equal opportunities for those typically underrepresented at the Bar. Therefore, **[chambers]** may offer a fixed-number or percentage of mini-pupillages to those typically underrepresented at the Bar. In any case, candidates who meet at least two of the following criteria will be prioritised in the application process for **[eg 50%]** of the available placements:
  - The first generation in their family to attend university or higher education
  - Have been in receipt of free school meals

- Have been in care, been a young carer, or are estranged (have lost contact and are no longer supported by family)
- Have parent(s)/guardian(s) who qualify for means-tested benefits
- Are from an ethnic minority background
- Are a refugee or an asylum seeker
- Have a disability and/or are neurodivergent
- Attended a non-fee-paying school or attend a fee-paying school on a full scholarship

- Any remaining opportunities will be made available to all other eligible applicants. If the number of applicants for the opportunities prioritised under paragraph 4.a is fewer than the opportunities available, the surplus opportunities shall be opened to all qualified applicants.

Safeguarding

Chambers is committed to providing a safe, welcoming, and supportive environment for all mini-pupils. Chambers recognises its duty of care and is committed to maintaining the highest standards of safeguarding during placements.

- Anyone participating in a **[chambers]** mini-pupillage must be registered with a **[named individual/team]** before they commence their mini-pupillage. (A registration form is included amongst these templates).
- Anyone participating in a **[chambers]** mini-pupillage must be given a copy of chambers harassment and complaints policy and the contact details of **[named person/team/appropriate advisor under chambers' anti-harassment policy],** where possible they should be introduced to **[this person/a member of this team]** before their placement starts.
- Any barrister offering a mini-pupillage must read **[chambers]** safeguarding guidance, guidance on appropriate behaviours and expectations[19] and have undertaken anti-harassment training in the last three years.

Exclusions [if your chambers does not allow informal mini-pupillages]

- It is not possible to obtain mini-pupillage by writing directly to a member of chambers or staff members.

[19] See our Bullying, Harassment and Sexual Harassment toolkit for suggested contents for this guidance

- Staff members and members of chambers should not offer to provide mini-pupillage opportunities directly. Anyone undertaking work experience outside the mini-pupillage avenues detailed in this policy would not be insured and would not be able to indicate that they had undertaken a mini-pupillage with **[chambers]** on any application form or CV.
- Staff members will not be permitted to assist with placement or arrangements of any mini-pupillage that has not been obtained in line with the provisions of this policy.

Date reviewed: **[date]**

Work experience (with chambers' clerks and staff) policy template

Download editable version.

About this policy

- This policy governs work experience placements undertaken by school or college-age students at **[chambers].** These placements are opportunities within chambers for students to shadow a staff member, offering them an opportunity to gain insight into the legal profession with a particular focus on clerking and the operation of a barristers' chambers. The purpose of such experiences is to inspire and inform students with an interest in the legal profession, promote accessibility, and encourage diversity within the profession.
- The objectives of this policy are:
  - To provide an insight into the profession, in particular the work conducted by staff members at **[chambers]**
  - To outline the process for gaining work experience placements at **[chambers]**
  - To foster greater diversity and inclusivity within the profession by ensuring opportunities are accessible to students from all backgrounds
  - To uphold the highest standards of responsibility and professionalism during work experience placements
  - To ensure placements are conducted in a safe and supportive environment
- Work experience opportunities shall not be obtained by discussing directly with staff members or members. In any event, they should be referred to the online application form.
- This policy applies to all members, associate members, door tenants, probationary tenants, pupils, staff members, consultants, and agency members.
- The **[senior member of staff eg CEO]** reserves the right to amend this policy at any time, and will ensure this policy is reviewed at least biannually.
- Any staff member breaching this policy may face action under the staff disciplinary procedure.

Exclusions

- There may be circumstances where the usual application criteria, as outlined at paragraph 9 may not be appropriate or sufficient. In any such case, it is at the discretion of the Chief Executive Officer to apply or vary the process, as provided from paragraph 10, as necessary.
- From time-to-time, chambers accepts candidates from external schemes. In any such case, the assessment of candidates is conducted by the external party and this policy does not apply.

Applicant criteria

Any applicant under this initiative must satisfy all the following:

- Be at least 16 years old by the time of the placement
- Be studying GCSEs, A-Levels, or an equivalent at the time of their application
- Have a genuine interest in the legal profession
- If under the age of 18, have the consent of their parent or guardian

Process

- All students interested in work experience placements must apply by completing the online application form found on **[chambers]** website **([link].**
- The number of work experience placements shall be limited to **[number eg 10].**

[Option to limit applications eg the number of applications accepted will be limited to eg 100 across the year].

- Chambers actively seeks to promote access to the profession, and equal opportunities for those typically under-represented at the Bar. Therefore, candidates who meet at least two of the following criteria will be prioritised in the application process for **[e.g. 50%]** of the available placements:
  - The first generation in their family to attend university or higher education
  - Have been in receipt of free school meals
  - Have been in care, been a young carer, or are estranged (have lost contact and are no longer supported by family)

- Have parent(s)/guardian(s) who qualify for means-tested benefits.
- Are from an ethnic minority background
- Are a refugee or an asylum seeker
- Have a disability and/or are neurodivergent
- Attend a non-fee-paying school or attend a fee-paying school on a full scholarship

- The remaining **[50%]** of placements are accessible to all students undertaking GCSEs and/or A-Levels or equivalent at the time of placement.
- If chambers does not receive enough applications for the placements described at paragraph 12, these shall be made available to all students.

Assessing applications

- In the event of chambers receiving more applications than available placements for the specific period, applications shall be anonymised by a member of chambers' administration team and scored against the criteria **[you will need to agree selection criteria].**
- At least three staff members will be responsible for scoring the applications against agreed criteria to ensure fairness.
- In the event of tied scores, preference may be given to applications demonstrating the strongest combination of enthusiasm and background diversity. Assessors may consider offering both applicants placements.

Expenses

[Optional: Chambers may provide funding of up to a maximum of £100 to contribute toward student travel expenses to undertake the placement].

Undertaking placements

- Once the successful applicants are identified, their details will be dispersed across chambers or different practice groups. Clerks or staff will be responsible for arranging suitable times for their placements to take place.
- All successful applicants will be required to complete a confidentiality agreement. (This may be part of the application or registration process).

Safeguarding

Chambers is committed to providing a safe, welcoming, and supportive environment for all students undertaking work experience. Chambers recognises its duty of care towards students and is committed to maintaining the highest standards of safeguarding for young people during their placements.

- Anyone participating in a **[chambers]** work experience programme must be registered with a **[named individual/team]** before they commence their work experience.[20]
- Anyone participating in a **[chambers]** work experience programme must be given a copy of chambers harassment and complaints policy and the contact details of **[named person/team/appropriate advisor under chambers' anti-harassment policy],** where possible they should be introduced to **[this person/a member of this team]** before their placement starts
- Any staff member offering a mini-pupillage must read safeguarding guidance or guidance on appropriate behaviours and /expectations and have undertaken anti-harassment training in the last three years. (See our Bullying, Harassment and Sexual Harassment Toolkit for suggested contents for this guidance.)

Reviewed: **[Date]**

Template: Chambers mini-pupillage and work experience registration form

Download editable version.

On completion, please email this form to: [Name/email address of person coordinating registrations]

Details of mini-pupil or work experience participant

Name
Address
Contact (telephone/email)

Person undertaking mini-pupil or work experience to complete (please tick):

☐	I have received a copy of chambers harassment and complaints policy
☐	I have been given the name and contact details of an appropriate person in chambers to speak to if I have a problem or concern.

Please add name of appropriate person:

By signing below, I agree to respect the rules and confidentiality of **[chambers]** with respect to my mini-pupillage or work experience placement. (This might be part of your application form, if so, it is not necessary here).
Participant signature: Date:

For children (those under 18) – to be signed by a parent or guardian
Parent or guardian signature (if participant is under 18):
Date:

To be completed by barrister or member of staff hosting placement:
Name of practice team or staff team
Name of person hosting mini-pupil and person undertaking work experience
Type of mini-pupillage/work placement [as appropriate]
Dates of mini-pupillage or work placement
Barrister or member of staff hosting placement to complete (please tick):

☐	I/we have read and accept chambers safeguarding guidance, guidance on appropriate behaviour and expectations

[Optional: If you allow informal mini-pupillages/work placements]
Add additional detail to your registration form as follows:

Please outline the nature of your relationship with the mini-pupil or person undertaking work experience and reasons for providing this informal mini-pupillage:

Chambers (signed) Date