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# Barristers' Working Lives 2017

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Barristers' experience  
of harassment, bullying & discrimination



The Bar Council  
*Integrity. Excellence. Justice.*

A third survey of the Bar

The Bar Council

# Barristers' Working Lives 2017

Third survey of barristers' experience of harassment, bullying & discrimination

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## Foreword

The Bar Council's Working Lives survey presents an opportunity to assess the extent to which barristers face harassment, bullying or discrimination in everyday practice, its nature, and the circumstances in which it is happening. Only in this way can we identify the right policy responses.

Over the last 12 months a spotlight has been shone on harassment (and abuse of power), not just through international campaigns such as #MeToo, but also through those specific to our own profession, such as @behindthegown – a campaign launched recently by barristers committed to tackling harassment at the Bar. We believe this survey will help inform this work and contribute to its success.

The findings explore the prevalence and nature of reports of harassment, bullying and discrimination in the profession, including who was reported as responsible for such behaviour. The results are a cause for concern. As a profession, we must do much better. We do not and will not tolerate harassment, bullying or discrimination at the Bar.

There are three strands to the Bar Council's approach to harassment - 'Identify', 'Report' and 'Support'. We aim to identify all contexts in which inappropriate behaviours occur. We aim to enable and empower all those affected to report in the way they see as most appropriate so that bullies are brought under control. We are determined to provide the support necessary to ensure victims and witnesses are looked after and suffer no career detriment. We also aim to support chambers and others in all three respects, and to assist and advise them in preventing and managing inappropriate behaviours, in protecting the careers of those who are the victims of, or who witness, inappropriate behaviour.

The Bar Council already offers a confidential helpline, training and other support to individuals and chambers. If you are facing harassment or being bullied, please use these services. We want to help. We are also working with the Bar Standards Board (BSB) to ensure rules about reporting encourage chambers and others to call out unacceptable behaviour rather than drive it underground.

We hope these findings remind everyone to be vigilant and to take responsibility by challenging this behaviour. We must get much tougher on this, and support each other better.

Once again, we would like to thank all those barristers who took part in the survey. The evidence in this report will be used widely by the Bar Council and others, to inform debate and policy making in tackling this issue.

**Andrew Walker QC,  
Chair of the Bar, 2018**

**Robin Allen QC,  
Chair, EDSM<sup>1</sup> Committee**

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<sup>1</sup> Equality, Diversity & Social Mobility Committee

## Executive Summary

The Working Lives Survey in 2017 was part sponsored by the Specialist Bar Associations (SBAs) and the Circuits. One of the key objectives of the survey was to gather data and insights into the working lives and working experiences of barristers at both the self-employed and employed Bars). Similar questions to those in the 2011 and 2013 Working Lives surveys were asked to enable us to identify trends.

The usable response rate was 26.4%, which is 4,092 usable responses from 15,515 valid email addresses. The profile of respondents broadly reflects that of the Bar when compared to other sources of information about the characteristics of barristers, albeit with a slight (3%) over-representation of women amongst respondents.

This report follows on from publication of Barristers' Attitudes to their Working Lives in early June 2018, and focuses specifically on survey findings related to perceptions of harassment or bullying and discrimination.

It is important to note that before answering the questions in the survey, respondents were not given a definition of what behaviour would constitute harassment or bullying, or discrimination. Responses are therefore based on respondents' perceptions of harassment or bullying and discrimination; it should be borne in mind that different groups of respondents might have different perceptions of what might be viewed as harassment or bullying or discrimination.

## Key Findings

- ❖ Overall there was a significant increase in the number of respondents reporting both 'personal experience of' harassment or bullying or discrimination when compared with responses from 2013 and 2011 (compared to 2011, reports on harassment or bullying are up 8% at the employed bar and 6% at the self-employed bar). There had been a small increase in reports of incidents of harassment, bullying and discrimination between 2011 and 2013; 2017 data suggests a more marked increase in reports of these behaviours.
- ❖ Similarly, there was a significant increase in the number of respondents reporting that they had 'observed' harassment or bullying or discrimination when compared with responses from 2013 and 2011 (compared to 2011, reports on harassment or bullying are up 8% at both the employed Bar and self-employed Bar).

- ❖ With respect to both ‘personal experience of’ and ‘observation of’ harassment or bullying, nearly twice as many employed barristers report experience of harassment or bullying (21% experienced/30% observed) when compared to members of the self-employed Bar (12% experienced/17% observed). The difference is less marked with respect to discrimination (16% of employed barristers reported ‘personal experience of’ discrimination versus 13% of self-employed barristers).
- ❖ Barristers in different practice areas report different experiences. For example, 18% of those in criminal practice report ‘personal experience of’ harassment or bullying when compared to 8% of commercial and chancery barristers. A comparison between the same practice areas reveals a similar difference with respect to ‘observation of’ harassment or bullying (26% vs. 16%). The same applies for ‘experience of’ or ‘observation of’ discrimination.
- ❖ Across seven out of the nine protected characteristics<sup>2</sup> explored, the most common form of harassment or bullying, or discrimination, was based on gender (53%) – up 5% on 2013 data available<sup>3</sup>; 16% was based on ethnicity (up 1% on 2013 data available). 37% of respondents cited ‘Other’ grounds.
- ❖ At the self-employed Bar, the person most commonly cited as responsible for harassment or bullying, or discrimination, is another barrister in chambers. 47% of those who reported personal experience of harassment or bullying and/or discrimination cited another barrister as responsible.

This last finding emphasises that this is a problem within the profession, which the Bar Council cannot ignore.

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<sup>2</sup> Gender, age, ethnicity, religion or belief, disability, sexual orientation, pregnancy/maternity

<sup>3</sup> 2011 data was not available for comparison

## 1. Introduction

### 1.1 Background

In June 2017, the Bar Council commissioned the Institute of Employment Studies (IES) and Employment Research Ltd (ERL) to undertake the third Working Lives Survey of the Bar. Previous surveys took place in 2011 and 2013.<sup>4</sup> The main objective was to provide better information on a range of working lives issues and an improved evidence base from which to formulate new policies and monitor trends in the profession.

The objectives of the 2017 survey included:

- Providing demographic data and information on the profile of the Bar, including information on equality and diversity issues at the Bar.
- Gathering data and insights into the working lives and employment experiences of barristers.
- Gaining a better understanding of career aspirations, motivations and intentions to stay in or leave the profession.
- Making comparisons with data and findings from the 2011 and 2013 Working Lives Surveys of the Bar.

The survey was part sponsored by the SBAs and Circuits.

We are grateful to those who took time in their busy schedules to provide information about their working lives and give their views about their profession

### 1.2 Survey

Much of the content of the survey was predetermined, with the objective of providing continuity with the 2011 and 2013 surveys.

Harassment or bullying and discrimination questions were kept as similar to the 2011 and 2013 surveys as possible to ensure that reliable comparisons could be made.

Other information was also collected, including year of Call, practice area, whether the respondent was employed/self-employed, age, gender, ethnic origin, disability, childcare responsibilities, schooling, religious affiliation and sexual orientation. In 2017, we added questions on Circuit and SBA membership to assist these organisations in supporting their members.

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<sup>4</sup> The two previous surveys were commissioned jointly by the Bar Council and the Bar Standards Board

We also asked questions about barristers' current situations to support our analysis.

The survey incorporated suggestions from the Bar Council, SBAs and the Circuits and was launched in late June 2017.

### 1.3 Sample

To provide sufficient responses from important sub-groups of barristers, all practising barristers were surveyed. In the previous two surveys only half of practising barristers were invited to participate in each survey, with the 2013 survey contacting barristers who had not been surveyed in 2011.

### 1.4 Survey Sample

The two main objectives were, first, to gain the maximum possible response, while covering as many of the questions as possible that the Bar Council wanted to answer, and secondly, to ensure that the process was cost effective. To this end, the 2017 survey was online only and started with an email invitation to all 15,826 barristers on the Bar Council database whose record contained email contact details. After one week, a reminder email was sent.

### 1.5 Response Information

The survey was in the field for approximately five weeks in all, but all responses that were received the week after the closing date were included in the final data set.

There were 3,651 completed questionnaires received before the survey closing date of 31 July 2017 (a further 657 partial responses were collected, of which 441 contained enough information to be usable in the analysis). The usable response rate was 26.4%– 4,092 usable responses.

In 2013, there were 3,276 usable returns. In 2011, there were 2,965 usable returns.

The profile of respondents broadly reflected the whole Bar (based on the available records of barristers' personal characteristics):

- 40% of survey respondents were women (women make up 37%<sup>5</sup> of the Bar);
- 13% of survey respondents identified as BAME<sup>6</sup> (13% of the Bar identify as BAME);
- 6% declared a disability;

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<sup>5</sup> <https://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/practising-barrister-statistics/>

<sup>6</sup> Black, Asian Minority Ethnic



- 6% identified as gay, lesbian or bisexual;
- 13% were employed and 83% self-employed (in chambers)<sup>7</sup>; and
- of those respondents who only practised in a single practice area<sup>8</sup> (2,133 respondents) 44% practised only criminal law, 23% only family law and 7% only chancery & commercial law. 48% (1,959 respondents) practised in more than one practice area.<sup>9</sup>

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<sup>7</sup> The balance of respondents were either in mixed employed/self-employed practice or were sole practitioners

<sup>8</sup> The balance (4%) had a mixed practice (respondents could indicate up to three different areas of practice in their responses)

<sup>9</sup> Respondents could list up to three practice areas and were only asked to list practice areas where they spent at least 30% of their time

## 2. Prevalence of harassment, bullying or discrimination

Overall, 21% of employed and 12% of self-employed respondents reported that they had personally experienced harassment or bullying at work in the two years prior to the survey. 16% of self-employed and 13% of self-employed respondents said that they had experienced discrimination. A slightly higher proportion reported that they had observed harassment or bullying (employed 30%, self-employed 17%) and 20% of employed and 15% of self-employed barristers said they had observed discrimination in their workplace (Table 8.1).

The percentage of barristers reporting personal experiences of harassment, bullying or discrimination has increased significantly since the 2013 survey, when 18% of employed and 8% of self-employed barristers reported they had experienced harassment or bullying, and 12% of employed and 8% of self-employed barristers reported they had experienced discrimination. There had been a small increase in reports of incidents of harassment, bullying and discrimination between 2011 and 2013; 2017 data suggests a more marked increase in reports of these behaviours.

Reported observation of harassment or bullying, and of discrimination has also increased significantly between the two surveys.

Following a pattern established in the previous two surveys, reports of harassment or bullying and discrimination were more prevalent at the employed Bar than at the self-employed Bar. Table 8.1 shows that twice as many employed barristers reported that they had experienced or observed harassment or bullying, compared with self-employed barristers. Reports of experience of, and observation of, discrimination were also more common at the employed Bar (16% reporting experience of discrimination, and 20% reporting observation of discrimination, whereas the corresponding figures for self-employed barristers are 13% and 15%).

**Table 8.1: Reports of harassment, bullying and discrimination in the workplace by section of the Bar (%), 2017, 2013 & 2011**

	Employed Bar			Self-Employed Bar		
	2017	2013	2011	2017	2013	2011
Personally experienced harassment/bullying	21	18	13	12	7	6
Observed harassment/bullying	30	21	22	17	9	9
Personally, experienced discrimination	16	12	11	13	8	6
Observed discrimination	20	15	14	15	8	7
<i>N= (max)</i>	719			3226		

Reports of harassment or bullying and discrimination vary between practice areas (Table 8.2). 18% of criminal practitioners and 17% of family barristers reported personal experience of harassment or bullying, compared to 8% of those in PN/PI<sup>10</sup> and commercial & chancery practice. 26% of criminal barristers reported observing harassment or bullying, compared to 16% in civil, PN/PI and chancery & commercial practice.

Looking at the highest and lowest figures, 17% of criminal practitioners reported personal experience of discrimination, compared to 8% of PN/PI practitioners. 21% of criminal practitioners reported observing discrimination compared to 11% of those in PN/PI practice.

**Table 8.2: Reports of harassment, bullying and discrimination in the workplace by practice area, 2013 vs 2017 (%)<sup>11</sup>**

	Personally, experienced harassment/bullying		Observed harassment/bullying		Personally, experienced discrimination		Observed discrimination	
	2017	2013	2017	2013	2017	2013	2017	2013
Criminal	18	11	26	12	17	11	21	10
Civil	12	9	16	13	10	10	13	11
PN/PI	8	3	16	6	8	4	11	5
C&C <sup>12</sup>	8	5	16	8	9	4	12	7
Family	17	11	20	11	11	8	14	7
EU/Int./other	10	12	21	13	13	9	17	6

*Note: 2017 responses based on those who practise in one practice area only, 2013 responses based on main practice area*

Women were more likely to report personal experience of harassment/bullying and/or discrimination than men (33% vs. 12%) (Table 8.3); BAME<sup>13</sup> respondents were more likely to report harassment/bullying and/or discrimination than white barristers. Disabled respondents were more likely to report harassment/bullying and/or discrimination than barristers who did not declare a disability.

<sup>10</sup> Professional negligence/personal injury

<sup>11</sup> Data not available for 2011

<sup>12</sup> Commercial & chancery

<sup>13</sup> Black, Asian Minority Ethnic

**Table 8.3: Experience of harassment, bullying or discrimination, by gender, ethnicity and disability 2017 (%)**

	Male	Female	White	BAME	Non-disabled	Disabled
Personally experienced harassment/bullying and/or discrimination	12	33	19	34	19	37
Observed harassment/bullying and/or discrimination	10	11	11	10	10	9
N=	2,127	1,443	3,011	435	3,268	225

### 3. Type of harassment, bullying or discrimination

Respondents who reported that they had experienced or observed harassment or bullying, or discrimination, were asked about its nature, in terms of whether it was linked to areas covered by equality and diversity legislation – gender, age, ethnic background, religion or belief, disability, sexual orientation, and pregnancy/maternity – or was some other form of harassment, bullying or discrimination.

Table 8.4 shows that in more than half of cases (53%) respondents reported that they were treated less favourably because of their gender, while in 21% of cases it was due to their age. 19% reported less favourable treatment based on ethnicity; 12% due to pregnancy/maternity; 6% for both disability and religion & belief and 5% based on their sexual orientation. As in 2013, 37% reported it as another form of harassment, bullying or discrimination (i.e. outside those characteristics protected by equality legislation).

**Table 8.4: Type of harassment, bullying or discrimination, 2013<sup>14</sup> and 2017 (%)**

	2017	2013
Gender	53	48
Age	21	20
Ethnic Background	19	18
Religion or belief	6	5
Disability	6	6
Sexual Orientation	5	7
Pregnancy/Maternity	12	12
Other	37	37

*Note: respondents were able to indicate more than one type of harassment, bullying or discrimination*

<sup>14</sup> Data is not available for 2011

## 4. Person responsible for harassment, bullying or discrimination

Respondents who reported that they had experienced or observed harassment, bullying or discrimination, were asked who was responsible for the harassment, bullying or discrimination, and were presented with the following options:

1. Another barrister in chambers/a colleague
2. A clerk or practice manager
3. A professional client/lay client
4. Head of chambers/management committee/manager
5. Other (please specify)

**Table 8.5: Person reported as responsible for harassment/bullying or discrimination (2017) %**

	<b>Personally, experienced harassment or bullying</b>	<b>Personally, experienced discrimination</b>
Another barrister in chambers/a colleague	50	47
A clerk or practice manager	28	41
A professional client/lay client	14	25
Head of chambers/management committee/manager	28	25
Other (please specify)	38	33

The most common response (Table 8.5) was that a colleague or another barrister in chambers was responsible, mentioned by 50% of those who reported experiencing harassment or bullying, and 47% of those who reported experiencing discrimination.

41% of barristers who reported experiencing discrimination stated that a clerk or practice manager was responsible.

28% of those who reported personally experiencing harassment or bullying, and 25% of those who reported personally experiencing discrimination cited their head of chambers, a member of their management committee or their manager as responsible.

There was some variation between those who reported harassment, bullying or discrimination based on employed vs. self-employed practice (See Table 8.6).

**Table 8.6: Person responsible for harassment, bullying or discrimination in 2017 (%)**

	<b>Employed</b>	<b>Self-Employed</b>	<b>All</b>
Another barrister in chambers/a colleague	39	47	45
A clerk or practice manager	20	35	31
A professional client/lay client	7	21	18
Head of chambers/management committee/manager	35	16	20
Other (please specify)	45	30	34

## 5. Opportunities for further investigation

Data can be interrogated further to establish:

- ✓ the personal characteristics of those reporting harassment or bullying, or discrimination e.g. gender, age, caring responsibilities etc.
- ✓ the geographical location and/or call of those reporting higher or lower incidents of harassment or bullying, or discrimination
- ✓ Those responsible for harassment or bullying, or discrimination (currently cited as 'other')