

# Mental Health & Wellbeing at the Bar

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Bullying



Wellbeing  
at the Bar

# Bullying

*"My supervisor expects me to work late at night and has told me my chances of tenancy will be affected if I don't. They have a reputation with other members of chambers as being difficult"*

Bullying and harassment are closely related concepts and they are often dealt with together.

## What is harassment?

**Harassment** is a technical term defined in the Equality Act 2010 as being:

*"...unwanted conduct, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."*

## What is bullying?

**Bullying** is not defined under legislation but ACAS describe it as:

*"...offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient"*

Bullying may be disguised as a form of firm management, so it is important to ask if there is objective justification for the treatment in question, both as to the reason for it and the way in which the treatment is delivered.

A [bullying website](#) describes bullying as:

*"... conduct that cannot be objectively justified by a reasonable code of conduct, and whose likely or actual cumulative effect is to threaten, undermine, constrain, humiliate or harm another person or their property, reputation, self-esteem, self-confidence or ability to perform."*

Barristers are expected to be fearless and robust in defence of their client's interests while maintaining their duty to the court and the administration of justice.

Context is important; justified performance management, making official complaints or reporting malpractice (when done in good faith and with relevant evidence) is not bullying.

You may be feeling like a senior member of Chambers, your Supervisor or the clerks are being hard on you. Incompetent supervisors may resort to bullying tactics due to their inability to motivate and understand the people they work with.

Tim Field was a UK anti-bullying activist and expert in the understanding and tackling of bullying in the workplace. His personal experience of being bullied and becoming physically and mentally unwell as a result led him to create the excellent resources on [Bully Online](#).

This expert site about workplace bullying notes that in hierarchical work environments bullying may arise when people project their own inadequacies onto others.

However, bullies are not always in a position of authority, and power is multi-faceted e.g. your co-pupil may be bullying you by making false claims, spreading rumours, or encouraging others who may have an unsubstantiated grievance against the person.

## What can bullying include?

It is possible for the person being bullied not to realise what is going on for some time. They may ignore the signs because they are convinced they cannot possibly be a victim of this destructive behaviour. Feeling shame and guilt about being bullied is perfectly natural and understandable. It is not unusual for those experiencing bullying to blame themselves and justify the bullying with some personal flaw. Some forms of bullying include:

- An unreasonable exchange in chambers, your workplace or outside court
- Unwanted physical contact
- Unwelcome remarks about a person's age, dress, appearance, race or marital status
- Jokes at personal expense, gossip, slander
- Use of offensive language
- Isolation or non-cooperation and exclusion from social activities
- Improper pressure to take on work you cannot accommodate or accepting a brief (in your Second Six) at reduced fees
- Personal intrusion from pestering, spying and stalking
- Failure to safeguard confidential information
- Shouting and/or directed angry outbursts either in front of others or one to one
- Setting unrealistic deadlines

## What is the difference between bullying and harassment?

Harassment on the grounds of specific characteristics is recognised in the Equality Act 2010. These protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation (CIPD, 2016).

Bullying is not defined in employment law and this can make it more difficult to define, especially as it is often a slow process of undermining or belittling behaviour which may go unnoticed by others.

## The health impacts of bullying

Being on the receiving end of bullying behaviour has long-term negative consequences to physical and mental wellbeing. A state of 'high alert' is often experienced by bullied individuals, where they feel they can never let their guard down around others and are in fear of the next comment or action towards them. This hyper-arousal means the body is in a permanent state of distress – with elevated cortisol and adrenalin levels.

People experiencing bullying may find they have constant tightness in their muscles and frequently feel aches and pains. Headaches, migraines, gastrointestinal problem and frequent colds and flu (due to reduced immunity) are not uncommon symptoms. This mental and physical state is directly linked to long-term negative impacts to our health and wellbeing. See here for further information on [typical signs and symptoms of stress](#).

## Self help

Some tips on how to manage a situation at work where you feel you are being bullied:

1. **Take a breath.** Find some space to think rationally and engage a calm approach. You may even find some [deep breathing or muscle relaxation exercises](#) useful.
2. **Relax.** Immediately following a bullying experience, you are bound to feel highly emotional and stressed, try to consciously relax.
3. **Don't blame yourself.** Remember, you have done nothing to encourage this behaviour and you are not to blame for the bully's actions towards you.
4. **Consider your next step.** Is there a breach of professional conduct? Also, approaching the bully might not always be the best solution and could make things worse, so draw up a list of possible options if you are worried that confronting the bully would negatively impact your career prospects or your reputation.
5. **Be polite but firm.** It is understandable to feel powerless because you are the most junior member of Chambers, but that does not justify bullying behaviour. If the bully is a judge, opponent or court clerk, rely on the fact that your exchange may be recorded. A note or record may be necessary for appellate purposes through MOJ, the Bar Council, or chambers' complaints procedure.
6. **Fact check.** Write down everything that takes place, when, where, who witnessed it and how you felt as a result. Remember to use any written evidence you can locate e.g. emails, notes or anything else which puts in writing what the bully has done. This can be particularly useful in cases of cyber bullying. You may start to notice patterns of behaviour and this evidence may be useful if you decide to confront your bully
7. **Seek advice from a trusted source.** This might be your Pupil Supervisor, Head of Chambers, fellow pupil, other colleague or clerk, or a friend outside the profession. Ask them what they think of the behaviour. Are you being objective? Could you have made an assumption or jumped to conclusions?
8. **Report it.** If your experience relates more specifically to chambers it may be appropriate to report the matter to the Chambers' EDO officer or the Head of Chambers. Chambers should have an anti-harassment policy (including sexual harassment) and it's important for pupils to know what the policy says. It should say what the next steps are if the pupil wants/ needs to go down a formal route. Contact the Bar Council helpline 0207 611 1320 for advice.

## Where can I find out more?

- <https://www.youtube.com/watch?v=YmRKIZEXVQM> - TED Talk on Sherry Benson-Podolchuk's personal experience with bullying in the workplace, and how to empower people to speak up in the most effective way.
- <https://www.youtube.com/watch?v=VZAn6x3yaYE> – TED talk by Andrew Faas on how creating physiologically healthy workplaces can save lives and contribute to the economy
- <https://www.youtube.com/watch?v=tIB1pFwGhA4> – TED talk by Clive Boddy on his research around the effects of toxic leadership and the influence of the presence of corporate psychopaths.

- <http://www.americanbar.org/publications/youraba/2014/november-2014/bullying-by-and-of-lawyers.html> - What to do about bullying between lawyers (including judicial bullying)
- <http://www.acas.org.uk/media/pdf/e/b/Seeking-better-solutions-tackling-bullying-and-ill-treatment-in-Britains-workplaces.pdf> - Policy discussion paper 'Seeking better solutions: tackling bullying and ill-treatment in Britain's workplaces'
- <http://www.bullying.com.au/workplace-bullying/index.php> - Further information on workplace bullying and resources to assist