

The Inns of Court Anti-Harassment Policy

With effect from 1 February 2020

1. The Inns are committed to providing an environment in which all individuals are treated with dignity and respect. Harassment in any form will not be tolerated by the Inns.
2. This Policy applies to all members of the Inns of Court at all levels (including students) and extends to activities beyond the Inns' premises as well as electronic communications. This Policy is not restricted to conduct taking place after it was adopted.
3. Harassment is illegal under the Equality Act 2010. The legal definition covers any form of unwanted conduct relating to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation which has the aim or effect of violating a person's dignity, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for that person (or, in some cases, a witness to the conduct). It also arises where a person engages in unwanted conduct of a sexual nature towards another person and the conduct has one or other of the above aims or effects. Harassment also includes treating a person less favourably than another person because they have either submitted to, or did not submit to, sexual harassment or harassment related to sex or gender reassignment.
4. 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 to the conduct will be used as a basis for decisions which have an impact on the recipient at work or study.
5. Harassment can include physical, verbal and non-verbal conduct. The following are non-exhaustive examples of types of behaviour which may amount to harassment:
 - Exploitation of a position of influence
 - Physical or sexual assault;
 - Requests for sexual intimacy in return for career advancement;
 - Unnecessary physical contact;
 - Unwanted indirect or electronic communication, including messaging and posting offensive comments on social media;
 - Exclusion from social networks and activities or other forms of isolation;
 - Bullying;
 - Victimisation;
 - Compromising suggestions or invitations;
 - Suggestive remarks or looks;
 - Display of offensive materials, including on a computer screen;

- Offensive jokes or verbal abuse, including any sent by email;
 - Offensive remarks or ridicule;
 - Dealing inappropriately or inadequately with complaints of harassment.
6. The Inns consider that it is inappropriate for members of the Inns providing teaching, mentoring or acting as a role model to initiate or enter into a sexual or romantic relationship with students or pupil members. This applies irrespective of whether the student or pupil did not appear to object, appeared to give consent, or even instigated the behaviour.
 7. Harassment constitutes serious misconduct, amounting to a breach of the Bar Code of Conduct for barristers or requiring investigation by the Judicial Conduct Investigations Office.
 8. The Inns do not accept harassment in any form, including conduct that falls short of serious misconduct or the legal definition of harassment under the Equality Act 2010, for example inappropriate and unwanted behaviour and humiliating, offensive or bullying behaviour that is not related to a protected characteristic under that Act.
 9. The effect of the unwanted behaviour on the person concerned will be an important factor to be taken into account, whether or not the behaviour was intended to be harmful, together with whether it was reasonable for the conduct to have had that effect.

Application of complaints procedure

10. This procedure does not apply to complaints made by clients concerning barristers or their employees (which would be covered by the barristers clients' complaints procedure).
11. Complaints by and against employees of the Inns will ordinarily fall within the grievance procedure contained in their contracts of employment. Should this not be the case this policy also applies to complaints by staff against Inn members.
12. The Inns are committed to ensuring that no one who makes an allegation or complaint of harassment in good faith should be subjected to any detriment as a result. Any victimisation of a complainant, witness or anyone else involved in the investigation of a complaint will be viewed as a disciplinary matter.
13. Complaints of conduct which may amount to serious misconduct by a barrister may be reported to the BSB immediately or following investigation (typically where serious misconduct by a barrister is found). Barristers have a duty to report their own serious misconduct and serious misconduct by other barristers. It may be reasonable to investigate a complaint of serious misconduct (typically to throw light and clarification on the allegation) before taking the decision whether to report to the BSB, or even if the matter is reported. It may also be reasonable to recommend that the matter is immediately reported to the police.

14. Confidentiality regarding complaints will be maintained as far as possible and appropriate. All records of complaints, including notes of meetings, interviews, results of investigations and other relevant material will be kept confidential by the Inns except where disclosure is required by law or for disciplinary or other remedial processes. Records will be retained for a period of at least one year.

Raising concerns and complaints

Initial contact – Stage 1

15. Individuals who feel that they have been subject to harassment or inappropriate conduct in connection with the activities of the Inns (or witnesses to the harassment of others) should make initial contact with the Under Treasurer or Sub-Treasurer of the Inn concerned, or another designated Inn employee appointed by the Under-Treasurer or Sub-Treasurer for this purpose. The details of designated Inn employees will be available on the Inns' websites.
16. Complaints are more easily resolved if dealt with at an early stage. Initial contact should be made with a designated Inn employee as soon as reasonably possible after the incident. The Inns appreciate that there may often be good reasons for delay in making a complaint and so there is no time limit on when a complaint can be raised.
17. The aim of this initial contact stage is to inform the individual raising the concern of the options open to them and the Inn in dealing with the issue, including informal and formal resolution, and to make an initial assessment of the seriousness of the issue.
18. Initial contact can be made by any means, including in person, by telephone, or in writing.
19. The designated Inn employee will:
 - respond promptly;
 - listen to and discuss the person's concerns;
 - explain the procedure should they wish to make a formal complaint;
 - discuss what outcome the person raising the concern would like to achieve;
 - discuss the BSB reporting requirement;
 - agree a way forward that the person raising the concern is happy with, in so far as possible;
 - keep the person raising the complaint informed of the outcome of any action taken;
 - if agreed, to communicate with the subject of the complaint, clarify the parties' respective positions and where appropriate attempt to resolve the matter in a less formal way, keeping both parties informed of the outcome.
20. The designated Inn employee will also respect that person's wishes for confidentiality so far as possible. However, those raising issues should be aware that the Inn has a duty of

care for all our members and in the most serious cases it may not be possible for the designated Inn employee to take no action.

21. Resolution at this stage could take the form of:

- an apology;
- mediation between the parties;
- an appropriate person speaking with the subject, to advise that the behaviour was unwelcome and should not happen again;
- support in accessing counselling for the complainant or subject;
- the subject agreeing to attend an anti-harassment training course.

22. Resolution at this stage should only be used in less serious cases. Cases where the behaviour is severe or prolonged, or of a sexual or violent nature, would not normally be suitable for resolution at this stage.

23. This first stage should take no more than 14 days, although resolution actions may take longer to complete.

24. Anonymised records will be kept of all initial contacts made, and will include the nature of the concern raised, the steps taken to resolve issues, and whether it progressed to a formal complaint. These records can be used by the Inn to inform relevant Committees and members of any patterns and to inform more general messaging to members and improving training for members. Where appropriate, anonymised reports and analysis of complaints will be shared with the BSB.

25. At any point during the first stage the individual raising a concern can choose to make a formal complaint, including immediately upon making initial contact.

Formal complaint – Stage 2

26. Formal complaints must be made in accordance with the complaints procedure at the relevant Inn. The designated Inn employee can provide complainants with details and the procedure can also be found on the Inn's website.

27. The investigation of a complaint will be carried out fairly and as quickly as possible.

28. The standard of proof will be the same as that used by the Bar Tribunal and Adjudication Service (BTAS).

29. The complaints procedure will include an appeals process.

30. Depending on the seriousness of the complaint and whether it is well-founded there is a broad range of possible outcomes, including by way of example:

- an appropriate person speaking with the subject of the complaint to advise that the behaviour was unwelcome and should not happen again. Further monitoring of their behaviour is likely to be recommended in these circumstances;
- the person concerned being excluded from teaching and mentoring roles for a fixed or indefinite period;
- making a BSB report or lodging a complaint with the Judicial Conduct Investigations Office or referring student members to the Inns' Conduct Committee;
- reporting the matter to the police;
- support in accessing counselling for the complainant or subject of complaint;
- recommending changes in Inn practices, e.g. regarding social or teaching events;
- the subject of the complaint agreeing to attend an anti-harassment training course.

31. Records will be kept of all formal complaints received, investigations and outcomes. These records can be used by the Inn to inform relevant Committees and members of any patterns and to inform more general messaging to members and improving training for members. Where appropriate, anonymised reports and analysis of complaints will be shared with the BSB.

Formal complaint – Stage 2 (Student Members)

32. In the case of a formal complaint against a student member, an investigation will be carried out in the same way as for other members of the Inn.

33. If the investigation finds that the complaint is well-founded, regardless of whether it is admitted or disputed by the subject of the complaint, the matter will be referred to the Inns' Conduct Committee (ICC) for determination.

34. For matters disputed by the student member the Inn has the burden of proof and must present evidence in support of the allegation in accordance with the ICC's "Disputed Facts Protocol". The complainant will be kept informed throughout this process and may be called to give evidence to the ICC.

35. A copy of this policy will be published on the Inns' websites.