

Dear Stephen and Martin

A response to the President's email below is necessary. I request that you publish my response below to all members of the Association.

Dear Members

We were informed yesterday by the President that 'on analysis' there is a 'very low incidence' of sexual harassment, bullying and discrimination at the Bar and that is a message that should be circulated externally.

I am so sorry that was said. It is offensive to members, employees of members and chambers, and to people who have dealt with members of the Bar, and who have experienced such conduct.

The fact that the WA Bar has not previously had a formal system for preventing, monitoring and addressing conduct of this type speaks volumes. It has allowed such behaviour to be normalised, it has silenced victims and it has rendered perpetrators unaccountable for their actions.

In any event, memories, identified by the President as 'the only available resource' differ across the Association. Let me share some of mine from my 16 years at the Bar.

As to sexual harassment, I remember members who will not stop inappropriately touching female colleagues, despite being repeatedly asked to stop. I remember any number of stories from new female members being asked inappropriate questions about their physical appearance, personal lives and relationships. I remember members who harass female instructors, physically, verbally or by requiring them to work or socialise after hours outside of chambers. I remember administrative staff, often very young and vulnerable, harassed by much older members. I remember any number of inappropriate comments, offensive 'jokes' and sexually charged insults at social functions. I could go on.

As to bullying, I remember the public humiliation at general meetings of those who dare to speak out in opposition to the status quo. I remember the marginalisation of those who do not play ball; excluded from presenting at CPDs, participation on committees, never consulted for their views. I remember the bad mouthing and casual defamation of those who represent a competitive threat. I remember the (currently very popular) technique of reversing the tables by accusing a member of bullying if they legitimately complain or remonstrate. I could go on.

As to discrimination, I remember the way in which female members are given any amount of encouragement or opportunity to fulfil very junior roles in matters but are disproportionately held out of lead counsel and speaking roles, especially in high profile and high value matters. I remember how unwelcome women were at the Bar until very recently- given the silent treatment in the common room and insulted or mocked within earshot. I remember how much longer it took the Bar, compared to the law firms, to accommodate working parents and parental leave. I remember how women are encouraged to join professional committees

and organisations to do the grunt work needed but are rarely encouraged to run for leadership positions. I could go on.

The President's contention that there is no imbalance of power at the Bar is wrong. It is endemic and underlies many of the cultural problems the Bar has. There is clearly an imbalance of power between members of the Bar and those who are employed by them. There is an imbalance of power between members of the Bar and many of those who instruct them, the imbalance obviously being more pronounced when the instructor is very junior. Amongst members, there are clearly imbalances of power according to seniority, those who have influence over the allocation of work, appointments to silk or the bench and the like. The Bar operates on a strict hierarchical structure that reinforces this. We can't even send fellow members an email without strictly observing the order of seniority in the address line.

Elspeth is certainly to be thanked for her efforts in producing a formal procedure that hopefully marks the beginning of a new way forward for the Bar in addressing sexual harassment, bullying and discrimination. But we need to be clear about why it is needed and that is to address an urgent and dire cultural problem that the Bar has. The procedure won't achieve this by itself but is a useful starting point for identifying what are the agreed standards of acceptable behaviour by all members.

Kind regards Patricia

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