THE SOUTH EASTERN CIRCUIT

Your Circuit. Your Voice.

Cambridgeshire Bar Mess

Harassment and Bullying Policy

1 Preamble

1.1 The Mess exists to represent, support, and promote the interests and welfare of barristers practising at Cambridge, Peterborough, and Huntingdon Court Centres. The proper administration of justice depends upon professional standards of conduct, mutual respect, and a working environment in which all court users are treated with dignity.

1.2 Bullying and harassment undermine confidence, wellbeing, and professional effectiveness. They are incompatible with the values of the Mess and have no place in practice.

1.3 The aim of this policy ("the Policy") is to promote and provide a safe environment for those associated with the Mess, and to support any members who experience bullying or harassment. If bullying or harassment occurs at Mess events or in connection with Mess activities, members may be subject to sanction under this policy.

1.4 This document sets out how the Mess will address complaints of harassment and bullying and may assist, support, and signpost individuals who experience or witness bullying or harassment, and how it may engage at a leadership or systemic level to promote appropriate standards of conduct across the Mess.

2 Definitions

2.1 Unlawful harassment is defined by the Equality Act 2010 as unwanted conduct, either of a sexual nature or related to a protected characteristic (sex, sexual orientation, gender re-assignment, race, religion/belief, age or disability), which has the purpose or effect of violating another's dignity or creating a degrading, offensive, humiliating, intimidating or hostile environment for them. In considering whether conduct has this effect, it is necessary to take into account all of the circumstances, the perception of the other person and whether it was reasonable for conduct to have had that effect.

2.2 Unlawful harassment does not require a course of conduct - an isolated incident can amount to unlawful harassment.

2.3 That a person may not have intended their conduct to be offensive does not preclude it from amounting to unlawful harassment.

2.4 An incident does not have to fulfil the legal definition of "harassment" to be dealt with appropriately under this policy.

2.5 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear of intimidation.

2.6 Inappropriate behaviour can include physical, verbal and non-verbal conduct.

3 Status and Application

3.1 This policy applies to all members of the Mess.

3.2 This policy does not apply to complaints made by clients concerning barristers or employees.

4 Complaints of bullying or harassment

4.1 Anyone subjected to bullying or harassment is encouraged not to suffer in silence. Taking time to reflect and speaking to a trusted colleague, mentor, friend, Head of Chambers or an Officer of the Mess can be an important first step.

4.2 In all such matters, the Mess will act consistently with its constitutional role, respecting the boundaries between support, representation, and regulation, while promoting a professional, respectful, and inclusive environment across the Mess.

5 Barristers Conduct

5.1 All practising barristers are regulated by the Bar Standards Board, the independent regulatory arm of the General Council of the Bar. The Bar Standards Board Code of Conduct sets out the professional duties and obligations of barristers.

5.2 Responsibility for compliance with the Code of Conduct rests with individual barristers.

6 Complaints about Barristers

6.1 The Bar Council Talk to Spot application provides a secure and confidential means of recording concerns about inappropriate behaviour, harassment, or discrimination. A contemporaneous record may assist if the matter is later pursued. The Bar Council Commissioner for Conduct is also a source of confidential information and advice.

6.2 Chambers are expected to maintain policies addressing bullying and harassment. Heads of Chambers are well placed to provide support, consider appropriate internal steps, and ensure that concerns are addressed promptly and fairly.

6.3 Rule C66 of the Bar Standards Board Code of Conduct requires a barrister to report serious misconduct directly to the Bar Standards Board where there are reasonable grounds to believe it has occurred.

6.4 Serious misconduct may include, but is not limited to, dishonesty, assault or harassment, misuse of confidential information, misleading the court, being under the influence of alcohol or drugs in court, failure to report serious misconduct, abusive or improper threats of reporting, and conduct posing a serious risk to the public.

7 Judges Conduct

7.1 Counsel must be treated with respect and courtesy. Bullying and harassment have no place in the courts of England and Wales.

7.2 Judicial challenge, firmness, and robust case management are integral to the judicial role and are distinct from bullying. Barristers understand and accept the need for judicial control and proper case management.

8 Complaints about Judges

8.1 Bullying includes behaviour that is offensive, intimidating, humiliating, or undermining, whether or not it is intentional, and whether it occurs in person or remotely.

8.2 Inappropriate behaviour may include shouting, excessive interruption, intemperate or demeaning language, personal abuse, unfair questioning of competence or professionalism, sarcasm or ridicule, intimidating body language, unrealistic or oppressive timetables, or unreasonable demands that undermine counsel's ability to represent their client properly.

9 Responding to Judicial Conduct Concerns

9.1 Counsel should remain courteous and professional. Standards of advocacy should be maintained at all times. Where appropriate, calm explanation may assist. If behaviour persists, counsel should make a contemporaneous note and identify witnesses where possible.

9.2 Senior members of the Bar who witness inappropriate treatment of junior counsel may, where appropriate, intervene courteously or offer support.

9.3 Remote and CVP hearings present particular challenges. Counsel should be clear and firm about what is feasible, including timetables, and should say so where demands cannot reasonably be met. Professional courtesy applies equally in virtual environments.

9.4 The Circuit in these circumstances will support members when deciding what options are available to them if subject to such conduct and assist if appropriate in the raising of a concern whether that be with Resident Judges or Presiding Judges.

9.5 Complaints about judicial conduct are within the remit of the Judicial Conduct Investigation Office.

10 Complaints about conduct which is connected to any Mess event.

10.1 If a complaint is raised concerning conduct which has occurred at a Mess event or during activities connected to the Mess, it should be raised with a member of the Executive Committee of the Mess. In turn the complaint will be notified to the Chair, unless the person complained about is the Chair.

10.2 Complaints can be raised informally or formally.

10.3 The Chair will determine in the first instance whether the complaint relates to activities in connection to the Mess. Their decision in this regard is not open to appeal. They will inform the complainant and any other affected party of the complaint of their decision as soon as practicable.

10.4 Formal complaints relating to activities in connection with the Mess will be referred to a Panel convened in accordance with Rule 5.4 of the Mess Constitution to consider the complaint and what steps should be taken.

10.5 The Panel will comprise of the Bar Mess Chair and two other members of the Executive Committee, selected by the Bar Mess Chair having regard to their experience, any connection to the subject matter

of the complaint, their availability and any other relevant matters, and subject to the substitution of an appropriate alternative in any case where recusal is necessary.

10.6 The Panel will invite representations from the member/s concerned and consider the information provided. The Panel will decide what information it may need to obtain, and determine whether an investigation needs to take place in order to assist in reaching a decision. Any such investigation must be carried out as fairly and as quickly as possible, and its conclusions provided to the Panel.

10.7 The Panel will determine whether the behaviour complained of has breached the Policy. The panel will determine on the balance of probabilities whether the behaviour complained of has occurred, and whether it is in breach of the Policy.

10.8 If a complaint is upheld by the Panel then the Panel may take such steps as are proportionate and appropriate within its remit, including for example:

10.8.1 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;

10.8.2 The person concerned being excluded from any Mess roles for a fixed or indefinite period;

10.8.3 The person concerned being excluded from some or all Mess social or educational activities for a fixed or indefinite period;

10.8.4 Support in accessing counselling for the complainant or subject of the complaint;

10.8.5 Recommending changes in Mess practices, e.g. regarding social or teaching events;

10.8.6 The subject of the complaint agreeing to attend appropriate Bar Council training;

10.8.7 Termination of membership of the Mess.

10.9 Where appropriate the Circuit may refer matters to the Bar Standards Board, the Judicial Conduct Investigations Office or the Police. Depending on the circumstances, this does not prohibit the Panel from considering the complaint. Such referrals are not sanctions imposed by the Mess but arise from independent reporting duties.

10.10 Any proposal of termination of membership will be referred to the Executive Committee which may approve or reject the proposal.

10.11 If any party wishes to appeal the decision of the Panel they may do so within 14 days by written notification to the Bar Mess Chair. The appeal will be determined by the Bar Mess Chair, unless they (in their sole discretion) consider they have a conflict, in which case it will be determined by a member of the Committee who has had no previous involvement in the matter. It is not a rehearing but an appeal by way of a review.

10.12 Records will be kept of all formal complaints received, investigations and outcomes. These records can be used by the Mess 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.

Dated: