THE SOUTH EASTERN CIRCUIT

SEC 13

Harassment and Bullying Complaints Policy

A standing paper beneath the Constitution

Preamble

The South Eastern Circuit exists to represent, support and promote the interests and welfare of barristers practising on the Circuit. 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.

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

The Circuit is not a regulator. It has no power to investigate, determine or adjudicate complaints, nor to impose disciplinary sanctions. Its role is supportive, representative and facilitative.

This document sets out how the Circuit 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 Circuit.

Status and application

This policy applies to concerns relating to bullying or harassment involving barristers or members of the judiciary practising or sitting on the South Eastern Circuit of England and Wales.

This document does not create any investigatory, disciplinary or regulatory function for the Circuit. All regulatory and disciplinary responsibilities rest with the appropriate statutory or professional bodies.

Role of the Circuit

The Circuit represents and supports barristers on the Circuit and promotes high professional standards.

The Circuit cannot investigate complaints, make findings of fact, retain complaint records relating to identifiable individuals, or determine outcomes, save as the Constitution provides in respect of membership (Rules 6.2(b), 6.4 and 19).

That constitutional process concerns membership of the Circuit alone. It is not a regulatory or disciplinary investigation, those remaining matters for the Bar Standards Board, and it does not displace the supportive and signposting role set out in this policy.

The Circuit may provide confidential guidance and signposting, assist individuals in understanding available options, and, where appropriate and with consent, raise non case specific or systemic concerns with Heads of Chambers, leadership judges, Resident Judges, court administration or other relevant bodies, in order to address issues of conduct, welfare or professional culture on the Circuit.

Handling of concerns raised with the Circuit

Where a concern or complaint about an identifiable individual is raised with the Circuit, it will be received by the Secretary or a delegated officer. No investigation will be undertaken and no record will be retained of the complaint or of any enquiries made. Members of the profession cannot investigate one another.

The individual raising the concern will be informed of the limits of the Circuit's role and will be signposted to the appropriate regulatory, complaints or support body.

Barristers' conduct

All practising barristers on the Circuit 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.

Responsibility for compliance with the Code of Conduct rests with individual barristers. Any obligation to report misconduct arises personally and does not pass to the Circuit.

Serious misconduct by barristers

Where information suggesting serious misconduct by a barrister comes to the attention of the Circuit, the matter will be reported to the Bar Council or the Bar Standards Board, or both.

Barristers should not report serious misconduct to the Circuit. 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.

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.

Reports of serious misconduct should be made directly to the Bar Standards Board through the reporting concerns process. Matters involving harassment, discrimination or victimisation will be handled sensitively. The Bar Standards Board recognises that individuals may themselves be affected by such conduct.

Confidential reporting is available through the Bar Council Talk to Spot application.

If you experience bullying or harassment

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 or Head of Chambers can be an important first step.

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.

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.

Support from the Circuit

Although the Circuit cannot receive or investigate complaints, it recognises the serious impact of bullying and harassment.

With the consent of the individual concerned, the Circuit may provide guidance and signposting, assist in navigating reporting or complaints processes, and consider whether it is appropriate to raise broader, non case specific concerns with Heads of Chambers, leadership judges, Resident Judges or court administration, in order to promote appropriate standards of conduct and working practices.

Judicial conduct

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

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.

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

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.

Responding to judicial conduct concerns

Counsel should remain courteous and professional and avoid overreaction. 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.

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

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.

Next steps and formal complaints

After a hearing, counsel are encouraged to speak to someone they trust and consider available options. Silence benefits no one.

Serious or persistent bullying by a judge may justify a formal complaint to the Judicial Conduct Investigations Office, which is responsible for considering complaints about judicial behaviour.

Circuit support in relation to judicial conduct

With consent, the Circuit may provide guidance and signposting and may, where appropriate, engage at a leadership or systemic level to raise concerns about court culture or conduct on the Circuit.

In all such matters, the Circuit 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 Circuit.