



INTERNATIONAL BAR ASSOCIATION

Seminar – Bullying and Sexual Harassment in the Legal Profession

Tuesday, 13 August 2019

- Good morning.
- I would like to begin by acknowledging the traditional owners of the land on which we meet today, the Wurundjeri people of the Kulin nation. I pay my respects to their elders past and present.
- Thank you for the warm introduction.
- I am delighted to be here this morning to discuss the findings of the International Bar Association’s report *‘Us Too? Bullying and Sexual Harassment in the Legal Profession’*.¹
- I would like to acknowledge and thank the International Bar Association and co-hosts MinterEllison, the Law Institute of Victoria, the Law Council of Australia and the Victorian Bar for their efforts in putting this event together.
- Thank you also to the ABC and *‘The Law Report’* for being here to record this morning’s discussion.
- The *‘Us Too?’* report is a landmark piece of research, which analyses data collected from the largest-ever global survey on bullying and sexual harassment in the legal profession.

¹ International Bar Association, *Us Too? Bullying and Sexual Harassment in the Legal Profession* (May 2019) (*‘Us Too’*).

- The report demonstrates, in no uncertain terms, that bullying and sexual harassment are rife in the legal profession.
- The report comes at a time when communities the world over are reckoning with structures, attitudes and behaviours that have allowed bullying and sexual harassment to take place, and often go unpunished.
- The legal profession is not immune from these issues.
- Indeed, as the report demonstrates, it has certain characteristics that can foster them.
- Despite this, the '*Us Too*' report is fundamentally constructive.
- It provides recommendations to aid the legal profession's efforts to achieve meaningful change.
- It can also assist in guiding best practice, raising awareness, and sparking dialogue.
- The International Bar Association, and the report's author Kieran Pender, who is here today to present the findings, should be commended on conducting the research.
- Its importance is no better demonstrated than by its international reach.
- I understand it has already been presented as widely as Budapest, Mexico City and New York, with presentations in Tanzania, Georgia and Chile still to come.
- Though it might seem a truism to say it, bullying and sexual harassment have, and should have, no place in the legal profession.
- This is for a number of reasons.
- Self-evidently, it is important to treat others with respect and dignity.

- Bullying and sexual harassment are expressions of disrespect and undermine the dignity of the individual.
- They should not be tolerated in any circumstance.
- All workplaces, including legal workplaces, should be safe and respectful.
- Further, lawyers occupy a privileged leadership position in society.
- Their behaviour should reflect the trust and confidence the community places in them.
- Lawyers should lead by example by stridently rejecting bullying and sexual harassment as acceptable norms in their workplace.
- Failing to do so risks jeopardising the reputation of the legal profession and undermining the operation of the justice system.
- What's more, bullying and sexual harassment in the legal profession have gendered impacts.
- The report shows that bullying and sexual harassment in legal workplaces disproportionately affects women.
- This can have negative consequences for career progression, attrition and re-engagement.
- With female practising lawyers now outnumbering their male counterparts in Victoria,² this is just not acceptable.
- Finally, bullying and sexual harassment are, at their core, divisionary, isolating and exclusionary behaviours.
- Diversity and inclusion – in whatever form - cannot thrive where bullying and sexual harassment are also occurring.

² *Lawyer Statistics* (Web Page, 2 October 2019) <https://lsbc.vic.gov.au/?page_id=287>.

- A lack of diversity and inclusion leads to poorer outcomes – both for lawyers and their workplaces.
- I am pleased to be able to say that there is work already being undertaken to identify and eliminate bullying and sexual harassment in the legal profession.
- Last year, the Victorian Bar conducted a landmark survey, ‘Wellbeing of the Victorian Bar’.
- Among other things, the survey captured data on discrimination, bullying and harassment encountered by barristers in the preceding year.
- The data was used to better understand the issues encountered by barristers and develop strategies to address them.
- Just last week the Victorian Legal Services Board and Commissioner launched a state-wide survey looking at the prevalence and nature of sexual harassment in Victoria’s legal workplaces.
- A separate survey, focussing on the training, policies and processes in place in Victoria’s legal workplaces to prevent and manage sexual harassment, has also been sent to principals of law practices.
- The surveys will assist in gaining an accurate and comprehensive understanding of sexual harassment in the legal profession, and the wider legal workforce in Victoria.
- The Law Council of Australia has for many years been committed to eliminating bullying and sexual harassment.
- In 2013, it conducted the National Attrition and Re-engagement Study.
- The study investigated the progression, attrition and re-engagement rates of lawyers, obtained data, and identified trends within the legal profession.

- Closer to home, last year I was proud to work closely with the Judicial College of Victoria to develop a stand-alone education program for judicial officers, 'Leading the Justice System: The Court as Workplace'.
- As part of that program, many judicial officers attended sessions to learn more about bullying, judicial conduct, and advanced court leadership.
- As I'm sure we all agree, it is important to take action to address bullying and sexual harassment.
- Education, research, and awareness raising are all components of this.
- The '*Us Too*' report and its worldwide rollout is an example of something that ticks each of these boxes.
- Robust legal frameworks and workplace policies are vital too.
- But at its core this issue can only be solved by real cultural change in legal workplaces as the actions I have just mentioned are not new suggestions.
- Many legal workplaces will have conducted training, or implemented a policy, in relation to bullying and sexual harassment.
- Yet, as the report shows, the numbers still remain high.
- So today I encourage you to think about how we might go about effecting real cultural change in our legal workplaces.
- Each of us in this room can make a significant contribution to achieving that change.
- I also encourage you to consider what barriers to change might exist.
- I am sure our panellists will have their own views on this too.
- I again commend the International Bar Association, and Kieran Pender, on the '*Us Too?*' report – it is truly a ground-breaking piece of research.

- The report and the research that underlies it provide a solid foundation for positive progress and change.
- We are living at a time where the issue of bullying and sexual harassment – and ways of eliminating it – has significant momentum.
- I hope this report will contribute to that momentum, and keep this much necessary dialogue going.
- The report is, in the words of former Prime Minister Julia Gillard, a ‘clarion call for urgent action’.³
- I am sincerely looking forward to the discussion today.
- I have no doubt our panellists and our moderator, will have some valuable insights to offer.
- I hope this morning’s discussion will help us to identify barriers, generate solutions for change, and leave us with ideas to take back to our own workplaces.
- Thank you.

**The Honourable Anne Ferguson
Chief Justice of the Supreme Court of Victoria**

³ *Us Too* 5.