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Powerful Perpetrators

The legal profession and sexual misconduct: A summary of the literature

Dr Hannah Richards

Dr Emma Yapp

Dr Natasha Mulvihill

Dr Nathan Birdsall

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Powerful Perpetrators is a five-year project (2023-2028) looking at sexual misconduct and abuse perpetrated by professionals, and the regulatory and administrative justice mechanisms used to investigate and sanction their behaviour. The project team are Dr Natasha Mulvihill (principal investigator); Dr Nathan Birdsall; Dr Emma Yapp and Dr Hannah K. Richards. More information is available at: www.powerfulperpetrators.org

Stage 1 of the project (May 2024 to October 2024) involved searching and synthesising the available literature on professional sexual misconduct. This work is collated in the following open access briefings:

- Yapp, E., Birdsall, N., Mulvihill, N., and Richards, H. 2024. *Doctors and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Richards, H., Yapp, E., Mulvihill, N., and Birdsall, N. 2024. *The legal profession and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Richards, H., Yapp, E., Mulvihill, N., and Birdsall, N. 2024. *The military and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Birdsall, N., Mulvihill, N., Richards, H., and Yapp, E. 2024. *The police and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Mulvihill, N., Richards, H., Yapp, E., and Birdsall, N. 2024. *Politicians and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Mulvihill, N., Richards, H., Yapp, E., and Birdsall, N. 2024. *Religious leaders and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.
- Richards, H., Yapp, E., Birdsall, N., and Mulvihill, N., 2024. *Professionals (general) and sexual misconduct: A summary of the literature*. Bristol, UK: University of Bristol.

The briefings and our 'literature summary interactive tool' to compare our findings for each profession is available on our website: www.powerfulperpetrators.org/publications



What is the nature and extent of sexual misconduct and abuse with the legal profession in the UK and internationally?

In a 2019 international self-report survey, 1 in 3 women (and 1 in 14 men) working in the legal profession reported having been sexually harassed in a work context (1). In the UK legal profession, sexual harassment impacted 38% of female respondents (and 6% of male respondents), and 74% of these cases were not reported (1). Within the legal profession, sexual misconduct can refer to (a) criminal sexual conduct involving clients or nonclients, (b) noncriminal, nonconsensual sexual conduct involving clients and nonclients and (c) sexual relations with existing clients (2–5). In a 2023 self-report survey of practising English and Welsh barristers, 122 of the 3,535 respondents reported experiencing or observing sexual harassment. 82% of these respondents reported sexual or sexist comments, remarks or sounds and 43% reported inappropriate physical contact. Other behaviours mentioned included sexual propositions, being the subject of sexist behaviour and language, receiving sexually explicit content via email or social media, bragging, stalking, and unwanted attention (6).

What administrative justice mechanisms do legal bodies have in place to respond to sexual misconduct and abuse by their members?

Who	Jurisdiction	Powers
The Legal Services Board	Oversight regulator	Intervention; financial penalties.
Solicitors Regulation Authority	Solicitors England & Wales; registered foreign lawyers; authorised bodies	Investigative powers; Fines (up to £2,000); rebukes; settlement agreements; conditions on practice; referral to Disciplinary Tribunal. Requires civil standard of proof.
Solicitors Disciplinary Tribunal	Solicitors England & Wales	Suspension; striking off; fines (over £2,000). Requires criminal standard of proof.
The Bar Tribunals Adjudication Service	Barristers England & Wales	Suspension; disbarment; fines; professional development; conditions on practice. Requires criminal standard of proof.
The Bar Standards Board	Barristers England & Wales	Investigative powers; determination by consent. Requires civil standard of proof.
Legal ombudsman	Legal profession England & Wales	Can award compensation.
Judicial Conduct Investigations Office	Judges England and Wales	Can refer for investigation by a nominated judge but cannot sanction or determine misconduct.
Judicial Appointments and Conduct Ombudsman	Judges England and Wales	Investigative powers; minor sanctions.



How do (a) perpetrator characteristics; (b) victim characteristics; and (c) the context of sexual misconduct and abuse, compare across the legal profession?

International data suggest that sexual harassment is most commonly perpetrated by male, non-supervisor senior colleagues (such as partners, judges, and law school deans) and in the physical workplace, and it disproportionately impacts younger, female members of the legal profession (1,2,7–14). Sexual misconduct is also common at work-related social events, conferences and during work travel (1). In the UK context, excessive alcohol consumption is often cited as a contributing factor to cases of sexual misconduct (7). Internationally, research has documented high rates of depression, anxiety and substance misuse in the legal profession, noting how these factors may also contribute to misconduct (15).

How do social relations of power operate and intersect with context and opportunity at the (a) individual (b) organisational-professional and (c) socio-cultural level, to account for the perpetration of sexual misconduct and abuse in the legal profession?

Power imbalances are embedded within the profession: for example, pupillage, clerking, and interning institutionalise unequal relationships (8,16–18). Substantial power is held by senior individuals (often white men), producing cultures of ‘worshipful silence’ in which sexual misconduct is tolerated and its perpetrators protected (17,19). This is compounded by the highly competitive nature of the sector: sparse job opportunities and a ‘boys’ club’ mentality may normalise bullying, harassment, and sexual hostility (8,16,18,20). Legal professionals have detailed knowledge of the high thresholds required for prosecution or disciplinary action related to sexual misconduct, and it is suggested that this may lead to a higher tolerance of non-criminal misconduct (11). The lawyer-client relationship too is acknowledged as one of potential exploitation: client-victims are often identified as being socially or financially ‘vulnerable’ and thus susceptible to sexual abuse by legal professionals (4,11). Non-disclosure agreements may also be misused to silence the victims of sexual misconduct (3). Finally, the mobility of the profession can also provide ‘safe harbours’ for serial offenders (21).

How effectively do current administrative justice mechanisms (a) sanction past sexual misconduct and abuse and (b) seek to deter future sexual misconduct and abuse?

Victims of sexual misconduct face many barriers to reporting – such as a fear of retaliation and potentially damaging consequences for their careers – consequently only a small proportion of incidents actually proceed through administrative justice mechanisms (1,11,17,22–24). Where incidents are reported, there is criticism of the delays in the process (4,25), the fact that witnesses and victims feel insecure throughout (14,25), and that disciplinary boards are reluctant to discuss the *sexual* nature of the offences (4). Moreover, often sanctions – particularly suspension – only pause behaviours, rather than addressing the issue of sexual misconduct in the profession more broadly (4). Elsewhere, there are reports that legal professionals are increasingly disengaged from their respective regulatory bodies, relying instead on the ‘in-house’ mechanisms available (22).



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