

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Women at the Bar

July 2016

Prepared by the Research Department

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Executive Summary

- The Equality Rules of the BSB Handbook¹ came into force on 1 September 2012. The Rules apply to self-employed barristers in multi-tenant chambers and include requirements to:
 - Produce an equality policy and action plan
 - Appoint an equality and diversity officer and a diversity data officer
 - Ensure chambers' selection panels are trained in fair recruitment
 - Conduct diversity monitoring and analyse the data and
 - Produce anti-harassment, flexible working, parental leave and reasonable adjustments policies.
- This research was carried out to improve the Bar Standards Board's knowledge of the implementation and effectiveness of the Equality Rules and to explore issues which may be contributing towards a lack of retention of female barristers.
- This research used an online survey sent to all currently practising female barristers, which was completed by 1,333 respondents. As those who responded may not be representative of all female barristers, the findings may not be generalizable to the whole of the female Bar. However, the response rate to the survey was high (close to one in four of the practising female Bar responded) and the profile of respondents is representative of the overall population on most key indicators (such as ethnicity, age and year of call).

Work Allocation

- The findings suggest that awareness of work allocation monitoring appears low. When respondents had queried work allocation, many had been satisfied with the response but others were not, with a lack of transparency the most common issue.

Flexible Working

- Awareness of flexible working policies among survey respondents appears substantially better than that surrounding the monitoring of work allocation and policies were generally rated highly by those aware of them.
- Experiences of flexible working appear to be mixed. For many, flexible working works well, but others raised issues that had led to a negative impact on their practice (such as an impact on work allocation or progression) or had prevented them from flexible working in the first place.

Recruitment

- The findings suggest that recruitment is generally seen as fair, and a large majority of chambers have implemented fair recruitment training.

Equality Policies

- The findings suggest the vast majority of chambers have equality policies in place, and awareness of equality policies amongst survey respondents is high. Awareness

¹ The Rules can be found <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

of harassment policies, however, is substantially lower. Both equality and harassment policies are rated highly by those aware of them.

Maternity/Parental Leave

- The research findings suggest that awareness of maternity/parental leave policies is high, with little evidence of widespread non-compliance with the requirement to have a maternity/parental leave policy. Policies were generally rated positively.
- However, many felt that taking maternity/parental leave had had a negative impact upon their practice, with impacts on work allocation, progression and income highlighted. Responses also highlighted negative attitudes towards those returning from maternity leave as hindering a successful return to practice.

Harassment

- Two in every five respondents said they had suffered harassment² at the Bar, with only a small proportion (one in five) reporting it. The findings suggest that the percentage of women having experienced harassment is very similar for all those called to the Bar over the last 15 years although the figure is higher for those with over 15 years call.
- Concern about the impact on their career was the most common reason cited by respondents for not reporting harassment, with prevailing attitudes at the Bar towards harassment and/or the reporting of harassment also a common reason for not reporting. Half of those survey participants who did report harassment were not satisfied with the response.

Discrimination

- More than two in every five respondents stated they had experienced discrimination³, again with only one in five reporting it. Responses suggest that discrimination from clerks or in the allocation of work more generally may be seen as particularly prevalent.
- Concern about the potential impact on their career, and prevailing attitudes within the legal profession, were the most common reasons respondents gave for not reporting discrimination. Among those who had reported discrimination, the majority were not satisfied with the response.

Retention

- Some findings within this research suggest that the Equality Rules are having an impact in some areas (for example support before and during maternity/parental leave, higher reporting of harassment) and for some respondents. However, most survey respondents did not feel the Rules have as yet had a significant impact in terms of supporting their careers.
- A large majority of survey respondents had contemplated leaving the Bar. Respondents were more likely to consider leaving the Bar if they also said that they

² Harassment covers a range of behaviours as defined in the Equality Act 2010. A full definition is given in paragraph 78 of this report.

³ Discrimination covers a range of behaviours as defined in the Equality Act 2010. A full definition is given on paragraph 94 of this report.

had experienced discrimination or harassment, if they were BME, or if they had primary caring responsibilities for children.

- In order to improve the retention of women at the Bar the report highlights the need to:
 - address and change elements of the culture of the Bar and legal profession
 - improve compliance with and awareness of the Equality Rules, and
 - provide more support, in particular around childcare responsibilities and flexible working.

Introduction

1. The Bar Standards Board is responsible for establishing and implementing a range of regulatory measures to ensure that standards at the Bar are maintained. One of the key regulatory objectives is “encouraging an independent, strong, diverse and effective legal profession”⁴.
2. The extent to which women are represented within the membership of the Bar is a growing conversation in the profession and wider society and has been highlighted as an issue in the BSB’s Equality and Diversity strategy⁵ and objectives⁶. The Equality Rules were introduced by the BSB, in part, to improve the progression and retention of women at the Bar.
3. The Equality Rules of the BSB Handbook came into force on 1 September 2012⁷. Prior to 2012 the rules were not mandatory. They apply to self-employed barristers in multi-tenant chambers and BSB authorised bodies only and include requirements to:
 - Produce an equality policy and action plan
 - Appoint an equality and diversity officer and appoint a diversity data officer
 - Ensure chambers’ selection panels are trained in fair recruitment
 - Conduct diversity monitoring and analyse data
 - Monitor and review distribution of work opportunities
 - Produce anti-harassment, flexible working, parental leave (including rent relief) and reasonable adjustments policies.
4. The implementation of the Equality Rules is monitored by the BSB’s Supervision department. Since 2013 three reports have been produced in relation to the supervision of equality and diversity. One exercise in 2014, which solely focused on the Equality Rules, found that only 19% of the selected chambers were fully compliant with all the rules. A further 31% of chambers were found to be compliant but needing improvements. So in total 50% of chambers were found non-compliant with some or all of the rules. The exercise showed that the rules still present significant challenges for the profession but focused simply on whether chambers had complied with the rules. It did not cover the experiences of barristers or how the policies we require are put into practice.

Research Background

5. The current data the Bar Standards Board holds on women in the profession shows that in 2015, 33.5% of the self-employed profession were women. This has increased from 32% in the 6 years since 2010. Of employed barristers, in 2015 45.8% of employed barristers were female. This proportion is higher than for the self-employed Bar. The BSB Equality and Diversity Committee has particularly highlighted the rate of access and progression in the profession as a concern – only 15% of heads of chambers and 13% of QCs are women, considerably lower than the proportion of women across the profession as a whole. Data on the practising Bar show that women have a far higher

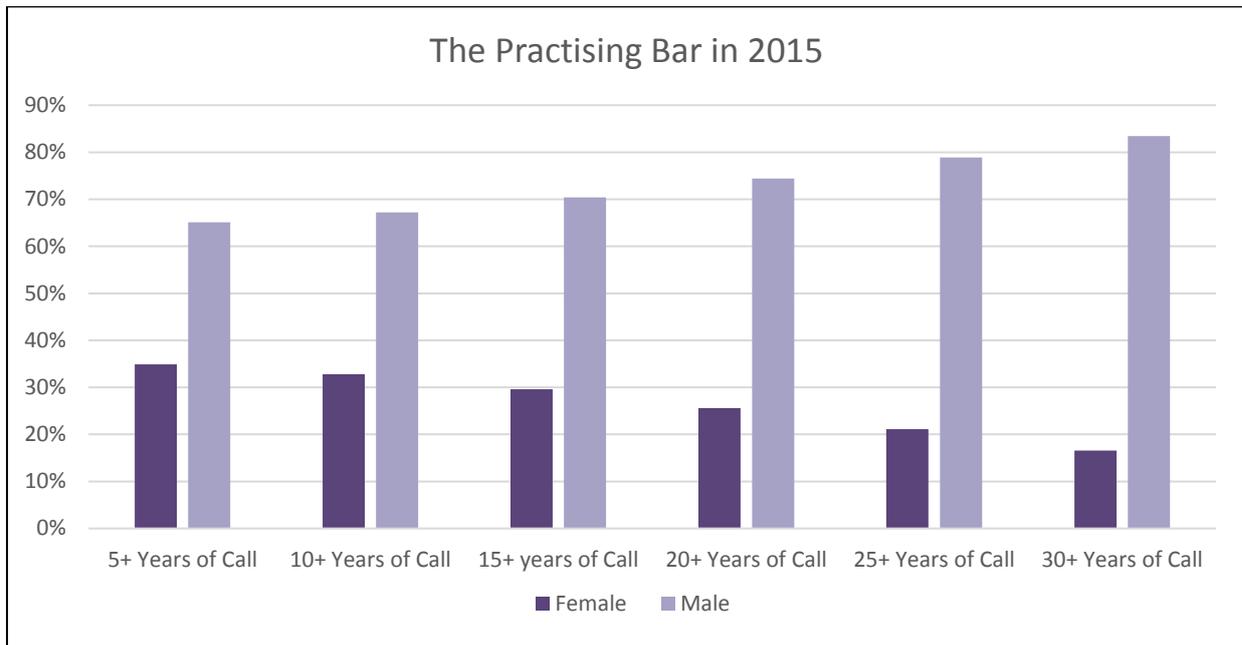
⁴ Section 1 (1)(f) Legal Services Act 2007

⁵ <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-strategy-2013-2016/>

⁶ <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-act-2010-%E2%80%93-publication-of-equality-objectives/>

⁷ <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

rate of attrition than men, with the proportion of women consistently falling as seniority (by year of Call) increases.



Source – Bar Standards Board records

6. A report for the Bar Council⁸ found that individual chambers' culture and policies had a huge impact on the experience of women at the Bar who were bringing up children. Participants in the Bar Council's research also talked about being disadvantaged by power structures within chambers. Younger women discussed how intimidating it was to challenge chambers' decisions on policy, practice and, particularly, rent arrangements. They explained how a personal interest in, for example, tapering arrangements or maternity/parental policies meant they felt vulnerable and likely to have to defend themselves against accusations of self-interest when discussing such issues. Generally, participants felt the BSB's Equality Rules had supported fairer treatment, including in access to work, and that women had benefited; but that there was still often a gap between policy and practice. They suggested that in their experience the real challenge was implementing fair policies, particularly when times are hard and chambers' finances are under pressure.
7. Research for the Bar Council⁹ found that notwithstanding the current parity in the numbers of men and women called to the Bar, current trends suggest that with the present model of practice at the Bar a 50:50 gender balance among all practising barristers is unlikely ever to be achieved. This is for two reasons - women have a lower propensity to move from Call to practice, and a higher attrition rate once in practice. The attrition is such that it would require a very long period of substantial imbalance in favour of women at Call to achieve a balance of women in practice.
8. The Bar Council's ongoing Change of Status survey has been sent to all barristers changing their practising status since December 2014. As of December 2015, it had

⁸ http://www.barcouncil.org.uk/media/379529/snapshot_-_the_experience_of_self-employed_women_at_the_bar.pdf

⁹ http://www.barcouncil.org.uk/media/378213/bar_council_momentum_measures_creating_a_diverse_profession_summary_report_july_2015.pdf

received 825 responses. The survey reveals significant differences between female and male barristers in a number of areas – female barristers changing their practising status are far more likely to have caring responsibilities for children (43.2% vs 13.8% of men) and to say that having children has had an adverse effect on their career (69.7% of women and 39% of men). Women changing their status are more likely to be family law practitioners (23.4% of women and 7.6% of men), an area of law that has been significantly affected by legal aid cuts. Finally, women are far more likely than men to cite family reasons for changing status, both the difficulty of balancing work and family commitments (17.4% of women compared to 5.3% of men) or a desire to spend more time with family (24.3% of women compared to 3.7% of men).

Research Objectives

9. The BSB is committed to becoming more evidence- and risk-based in all that it does. Following the introduction of the Equality Rules, the BSB was keen to determine how effectively the rules were working and to what extent they were achieving their objectives. The monitoring undertaken by the Supervision Team focused on compliance with the Equality Rules; whether a chambers had specific policies and action plans. There was a need to look further than compliance and assess how these policies are put into practice.
10. The key objective of this research was to look into the impacts the Equality Rules have had for women at the Bar. This was to contribute to on-going efforts to address gender inequality faced by women at the Bar, to ensure compliance with the Equality Rules, and to explore gender anti-discriminatory practices within the profession.
11. The objectives of the research were:
 - to investigate women’s perceptions and experiences of the current equality rules, and;
 - to better understand the perceived structural and cultural barriers to progression and retention of women at the Bar.

Methodology and Limitations

12. The research used an online survey comprised of both multiple choice and open text responses (a copy of the survey questions is included in Annex A). The survey was hosted online on the *SurveyMonkey* website, and was launched on 12 January 2016 and left open for responses until 9 February 2016. The link to the survey was emailed to all female barristers with an active practising certificate, with a reminder email being sent a week before the survey closed.
13. The survey was undertaken by 1,333 respondents, compared to 5,667 female barristers with an active practising certificate at the time the survey was launched. This represents 23.5% of the practising female Bar.
14. The sample was self-selecting rather than random due to the nature of the online survey methodology. As a result, it is impossible to rule out non-response bias¹⁰, and the profile and experiences of the survey respondents may not be representative of the whole population of female barristers. Instead, they should be treated as indicative of the experience of the female Bar rather than as a statistically representative sample.

¹⁰ Non-response bias occurs when those that respond to a survey are not representative of the population as a whole.

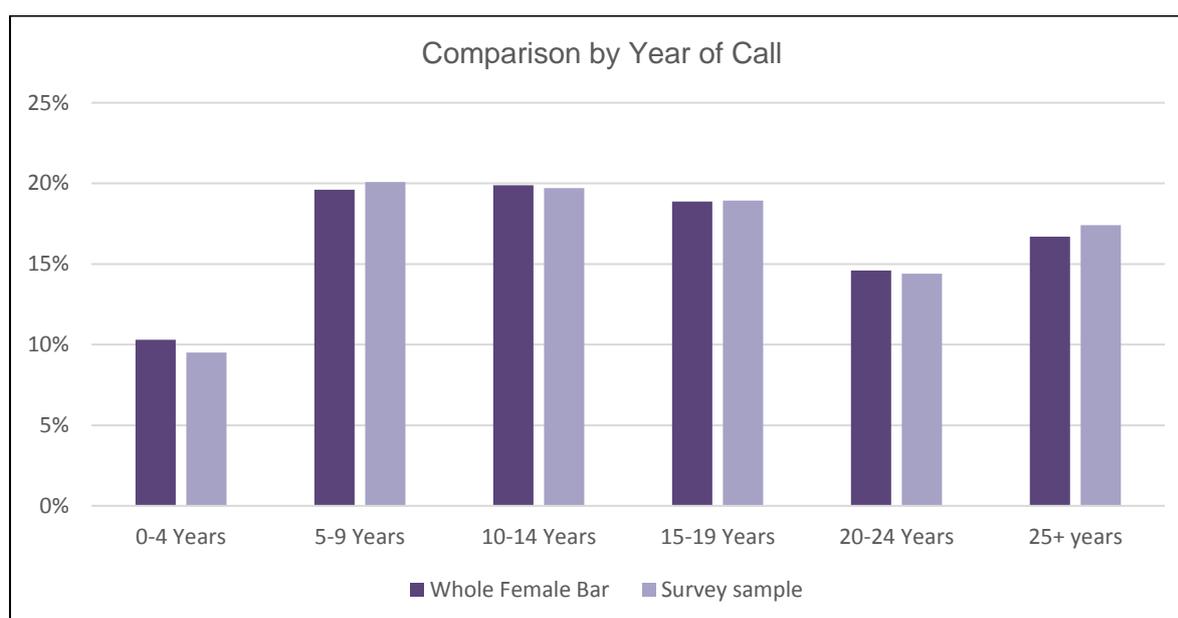
15. The survey directed respondents through questions relevant to their own situation, and as a result not all respondents answered all questions. Numbers of respondents for each question are included below the charts within the report.
16. Where differences are described as “significant”, this indicates that they have been tested and found to be statistically significant at least at the 5% significance level (the standard significance level for social research). For the purposes of the analyses carried out in this report, statistical significance indicates that differences for responses between groups are larger than can reasonably be expected to result from chance occurrence.
17. Qualitative responses (open text answers) were analysed using a thematic analysis approach. This involves identifying the key themes that emerge from the data that have relevance to the research question or topic of interest through careful reading of the data. Each question response is then coded if it is judged to refer to a particular theme. Responses were coded using the NVivo software package.
18. Quotations have been selected to be illustrative of the key themes and issues raised in responses to certain questions, while being used in a way that preserves the anonymity of respondents. They do not represent the full range of experiences or opinions expressed by respondents to the survey.

Profile of Respondents

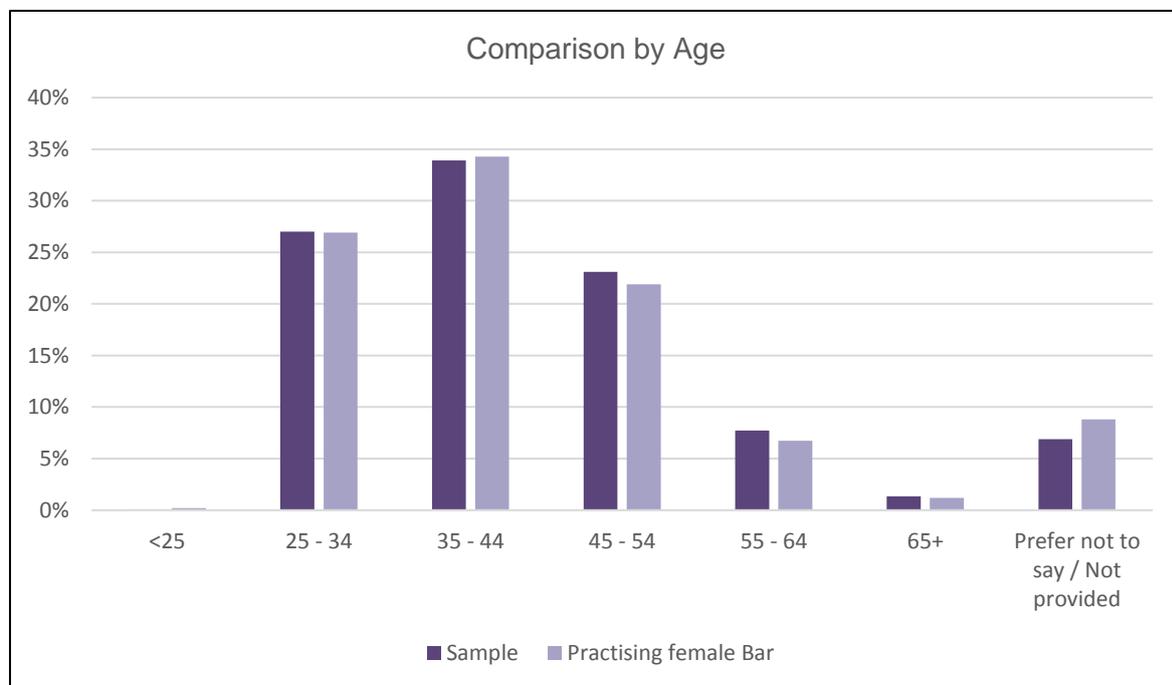
19. A limitation of the methodology used for this research was that the sample was self-selecting (see paragraph 14). One way of addressing concerns that the sample is not representative of the overall population is to investigate the extent to which the profile of respondents matches the overall population for indicators where the percentages for the population as a whole are known. The closer the sample corresponds with the overall population, the greater the level of confidence that the survey findings are representative.
20. The majority (78.4%) of the survey respondents were self-employed barristers in chambers (this compares to 72.3% of the practising female Bar). Employed barristers made up 14.5% of respondents (compared to 23.4% of the practising female Bar). The proportion of sole practitioners and dual capacity barristers were similar to their proportions in the population of female barristers as a whole. However, a larger proportion of survey respondents were Queen's Counsel (7%) than the proportion in the population of female Bar (where 3.7% are QCs).

	Sample	Practising female Bar
	Practising Status	
Self-employed barrister in Chambers	79.6%	72.3%
Sole Practitioner	3.3%	3.1%
Employed barrister	15.2%	23.4%
Dual Capacity barrister	1.1%	1.1%
Registered European Lawyer	0.2%	0.1%
Prefer not to say	0.7%	N/A
	Seniority	
Third Six Pupil	0.5%	0.9%
Junior Barrister	92.5%	95.4%
QC	7.0%	3.7%

21. In terms of year of Call of respondents, the survey was representative of the female Bar, with only minor differences between the practising female Bar and the survey sample.



22. In terms of ethnicity, the sample was broadly representative of the female Bar – 78.4% of respondents were white, 13.3% were BME, and 8.4% did not provide their ethnicity (the corresponding figures for the whole female Bar are 79.2%, 11.9% and 8.8%). Similarly, for age the sample was also representative of the female Bar (see table below). For other equality and diversity indicators, the reporting rate for the Bar as a whole is too low to enable valid comparisons.



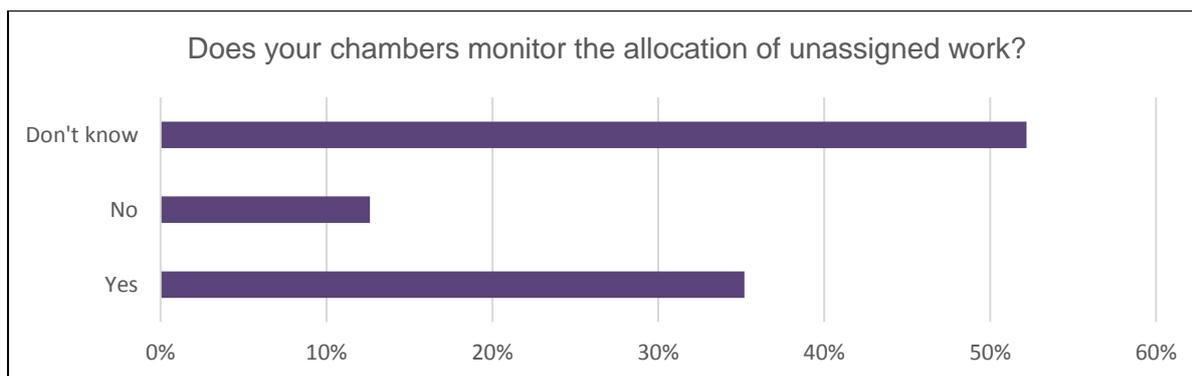
23. The indicators therefore suggest while in many areas, the makeup of survey respondents is representative of the makeup of the female Bar as a whole, in some areas (in particular the under-representation of employed barristers and the over-representation of Queen’s Counsel) the survey sample is not representative. This should be taken into account when interpreting the results of the survey.

Work Allocation Monitoring

Key Findings - Work Allocation

- Awareness of the allocation of unassigned work within chambers is low, with more than half of survey respondents not aware whether their chambers monitors work allocation.
- Even when they were aware that monitoring was in place, a substantial proportion of respondents did not personally engage with the process.
- While many responses stated monitoring worked well, others cited issues around a lack of transparency, favouritism, and the difficulty of monitoring effectively as issues.
- The majority of respondents had not queried the allocation of work within their chambers.
- Where respondents had queried the allocation of work, responses were evenly divided between positive and negative experiences.
- The majority of those who were satisfied with the results of their query cited a satisfactory explanation of how work was allocated or an improvement in the work they received.
- For those who were not satisfied with the response to their query, a lack of transparency was the most common issue. Some respondents felt the querying of work allocation resulted in a change for the worse.

24. The Equality Rules in the BSB Handbook require all chambers to review the allocation of unassigned work regularly. Work monitoring is an active exercise to identify discrepancies in how work is being allocated within chambers and BSB authorised bodies. The review should include collecting and analysing data broken down by race, disability and gender, investigating the reasons for any disparities in that data and taking appropriate remedial action. Work is unassigned if at any point of enquiry, and/or at the point at which it is sent into chambers or the BSB authorised body, the person instructing does not state that it is to be assigned to a named member of chambers.
25. The survey asked respondents whether their chambers monitored the allocation of unassigned work and their experiences of work allocation monitoring. The work allocation questions were asked of all respondents who currently work in chambers. 52.2% did not know whether their chambers monitored the allocation of unassigned work or not. Of those who were aware of their chambers policy, most said that their chambers did monitor the allocation of unassigned work. Awareness of work allocation monitoring differed significantly by year of Call, with more senior respondents more likely to be aware of work allocation monitoring – 71.6% of those under five years of Call answered “don’t know” to this question in contrast to 45.1% of those over 25 years of Call.



N=1056

26. When asked about their personal experiences relating to work allocation monitoring, over two fifths of respondents stated they did not have personal experience of work allocation monitoring, either because their current chambers did not have policies in place, or that they were not aware or had not queried how work was allocated. For those with personal experience of monitoring, responses were closely divided between those who were broadly positive about the process, and those who were negative, with a slightly larger proportion giving positive experiences than negative.

27. More than a quarter of answers relating to personal experiences of work monitoring cited negative experiences. For those who had had negative experiences, issues with a lack of transparency, even where policies were in place, were raised by a number of respondents. Indeed, a lack of transparency was mentioned by a number of respondents even when they had not personally had negative experiences of work allocation. In addition, a number of respondents cited issues of “favouritism” from clerks or management towards certain barristers which undermined the implementation of monitoring policies.

“I have never seen any evidence or data generated in connection with work allocation monitoring and the culture in chambers doesn't prioritise this.” Self-employed barrister

“It appears that this is kept a secret and down to those who are in management committee and senior clerks to decide who is in favour and who is not.” Self-employed barrister

“The male members of chambers take the (all male) clerks for a drink and that informal friendly relationship percolates through to the work environment and work allocation.” Self-employed barrister

28. Those who had positive experiences of work allocation monitoring made up close to a third of those who responded to this question. A number of respondents had personal involvement in the review or dissemination of the results of work monitoring.

“It is monitored fairly, rigorously, and in a transparent way. We are provided with spreadsheets at practice reviews demonstrating the results of the monitoring.” Self-employed barrister

“I was work allocation monitor in chambers for 4 years. Work is allocated fairly and the clerks make every effort to ensure that all members of chambers are kept employed to the extent that they want to be.” Self-employed Queen's Counsel

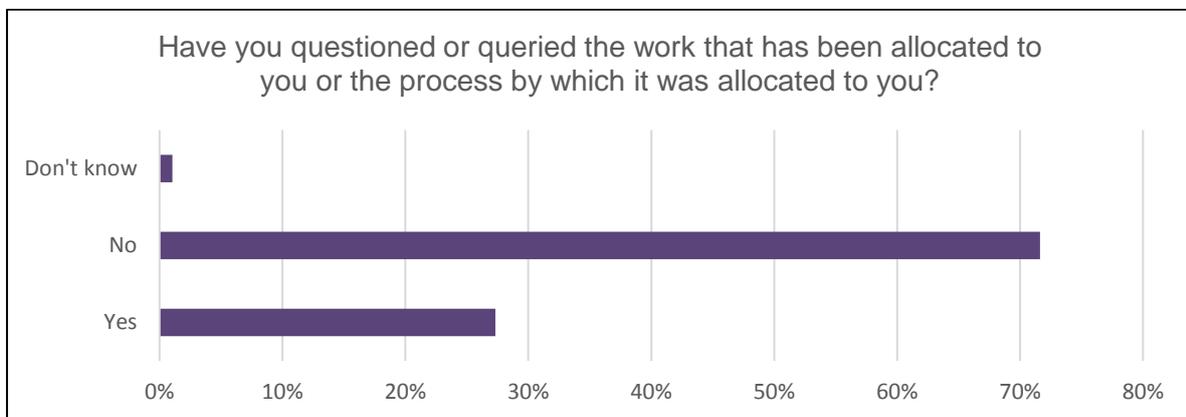
29. Other issues mentioned by respondents were that the effective monitoring of work allocation was difficult to implement, and that “unassigned” work was not the key issue, either because the majority of work that came in was for named barristers, or because

the promotion of certain members of chambers can steer clients towards choosing them to undertake work and means that incoming work does not count as “unassigned”.

“It is difficult to monitor in a meaningful way given the number of factors which affect work allocation but chambers do their best.” Self-employed barrister

“Junior male Members of Chambers are promoted and supported to get their names 'out there' in a way that female Members of Chambers are not, so that even before the work is assigned, there is discrimination at play.” Self-employed barrister

30. The majority of self-employed respondents (71.6%) had not queried how work had been allocated to them. Respondents whose chambers did not monitor the allocation of unassigned work were significantly more likely to question the process (39.4%) than those whose chambers did monitor the allocation of unassigned work (23.7%) or those who were unaware if unassigned work allocation was monitored or not (26.9%). Respondents under 5 years of Call were also significantly less likely to query work allocation than other respondents – only 13.6% of those under five years of call had queried work allocation, compared to 27.3% across the sample as a whole.



N=1047

31. Respondents who had queried the allocation of work were asked what the results of their query had been. Responses were broadly equally split between those who were positive about the response to their query, and those who were negative. A small number of respondents stated that the issue was currently ongoing or that the results of their query were currently inconclusive. A small number of responses (approximately 5%) stated that their query into work allocation had resulted in a temporary improvement but that the change had not been sustained.

“Work allocated to me increased briefly and tailed off again.” Self-employed barrister

32. The most common negative issue - raised by over half of those who felt their query had not been dealt with positively - was that they had not been provided with a suitable explanation, or enough information relating to work allocation. Some respondents stated that querying work allocation had actually resulted in a change for the worse.

“The person I queried it with initially denied that there was any policy relating to the allocation of work. Whilst they eventually conceded that there was a policy in place, they did not deal with my substantive question about whether or not the policy was actually being implemented.” Self-employed barrister

“Clerks are very reluctant to give information on work allocation - the culture in chambers is such that it is seen as ‘difficult’ or ‘disrespecting the clerks’ if you ask questions about this.”
Self-employed barrister

“The clerks stopped briefing me entirely and did not speak to me when I went in to the clerks’ room.” Self-employed barrister

33. The most common positive response to allocation queries – cited by over half of those who were satisfied by the response to their query - was that respondents had been provided with a satisfactory explanation, either for a particular issue they had raised or around work allocation more generally. Over a quarter of those who were satisfied with the response to their query noted that practices had improved after they queried work allocation.

“I found I was allocated work with the same regularity as other members of chambers. There was no ‘unfair’ or ‘unequal’ treatment.” Self-employed barrister

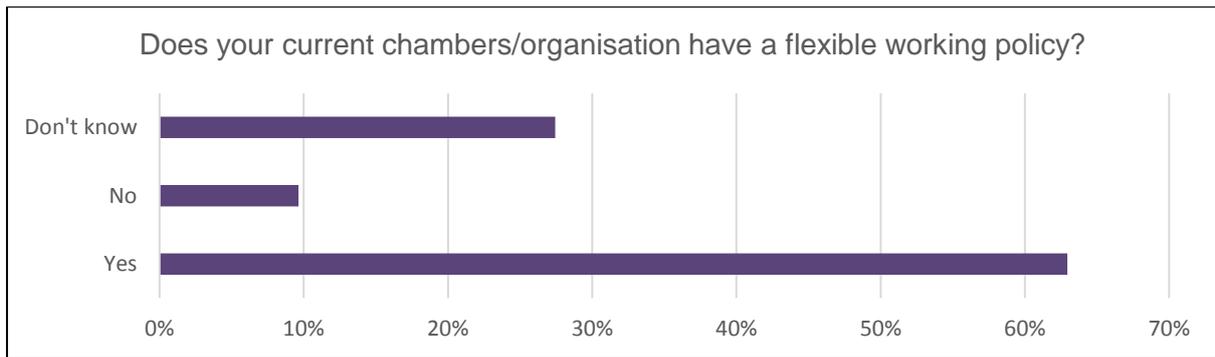
“I queried the allocation having returned from maternity leave. Once queried, I did have a significant increase in work.” Self-employed barrister

Flexible Working

Key Findings – Flexible Working

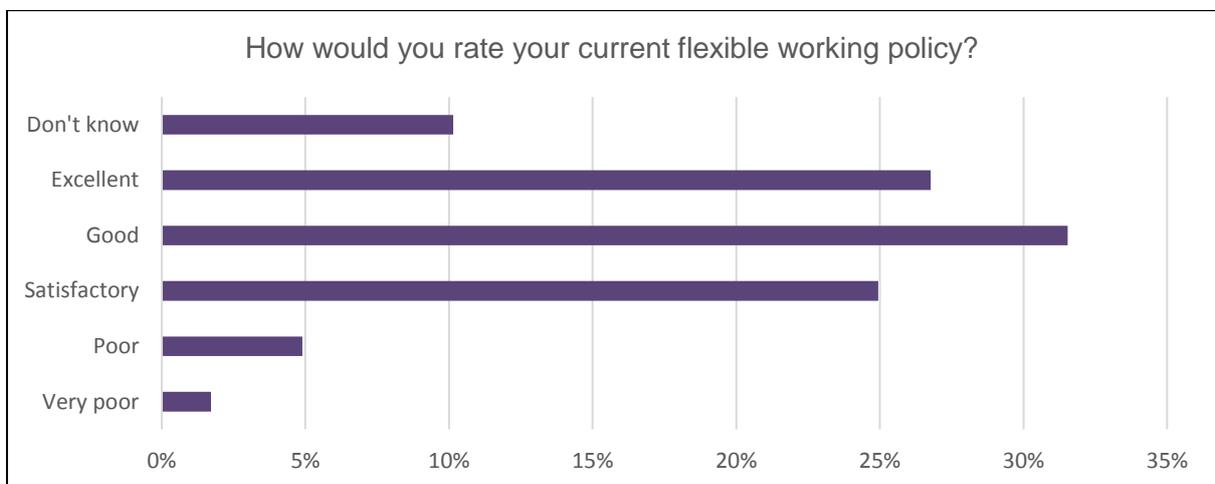
- The majority of respondents' organisations had a flexible working policy in place. In addition, the majority of respondents rated their organisation's policy highly.
- A substantial proportion of self-employed barristers were unaware whether their chambers had a flexible working policy – however, awareness was far higher for those who were more likely to require flexible working, such as those with caring responsibilities.
- The majority of respondents had not requested flexible working. However, among those whose organisation had flexible working policies in place, or who had caring responsibilities for children, the majority *had* requested flexible working.
- The majority of those who had worked flexibly felt it had helped them to remain at the Bar, but were far less positive about the impact on their career progression.
- Three fifths of those who had experience of flexible working felt it had negatively impacted on their practice, with an impact on work allocation or progression the most common issues.
- Impact on income was the most common reason given for not working flexibly. Also mentioned were the incompatibility of flexible working with court timetables and negative attitudes from clients or chambers towards those who worked flexibly.

34. The BSB's Equality Rules require that each chambers has a flexible working policy which covers the right of a member of chambers or employee to take a career break, to work part-time, to work flexible hours or to work from home so as to enable them to manage their family responsibilities or disability without giving up work. Employed barristers are covered by the legislation relating to the entitlement to request flexible working arrangements.
35. The survey asked respondents whether their current chambers or organisation had a flexible working policy and their experiences of flexible working. The majority of respondents worked at a chambers or organisation that had a flexible working policy. However, responses to this question varied significantly across different practising statuses. While 88.5% of employed barristers and 92.3% of dual capacity respondents said their chambers or organisation had a flexible working policy, this dropped to 58.4% of self-employed barristers. For self-employed respondents, 31.3% were not aware if their chambers had a flexible working policy, and 10.2% said their chambers did not have a flexible working policy. Responses to this question also differed significantly by seniority by year of Call, with more senior barristers less likely to be unaware of their organisation's policy – 21% of respondents of 15+ years of Call were unaware whether their organisation had a flexible working policy compared to 34% of those under 15 years of Call.



N=1287

36. The majority of respondents whose organisation had a flexible working policy rated it positively, with 58.3% rating the policy as “good” or “excellent” and only 6.6% rating the policy as “poor” or “very poor”.

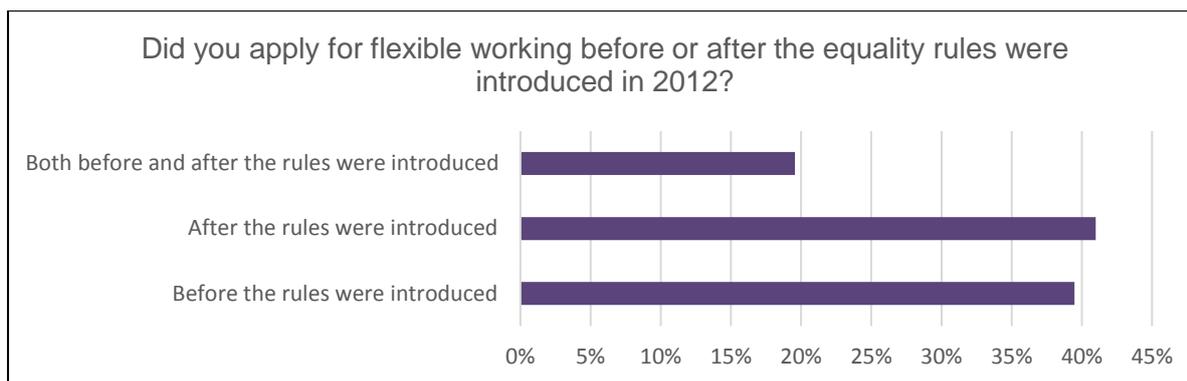


N=818

37. The majority of respondents (58.3%) had not asked to work flexibly. However, for respondents whose organisation had a flexible working policy, 51.1% stated they had requested flexible working, compared to 28.2% of those whose organisation did not have a flexible working policy, and 24.9% of those who did not know if their organisation had a flexible working policy or not. Respondents who were self-employed were significantly less likely to have requested flexible working - 38% of self-employed respondents had requested flexible working, compared to 57% of employed respondents.

38. The most common reason given for respondents requesting flexible working is because of caring responsibilities for children (see paragraph 44). Respondents with primary caring responsibilities for children were significantly more likely to have requested flexible working at the Bar (64.6%) compared to those who were not the primary carer for a child (24.5% of whom had requested flexible working).

39. Respondents who had requested flexible working had done so both before and after the Equality Rules were introduced, with roughly equal proportions having requested flexible working before and after the introduction of a flexible working requirement in the BSB’s rules. There was no significant difference between employed and self-employed barristers in the proportions giving each response.



N=532

40. Respondents who had applied for flexible working were also asked about the outcome of their application. The vast majority of responses to this question stated that respondents had been able to work flexibly (over 85%). Close to one in four of those who were able to work flexibly said that their flexible working arrangements were an informal arrangement related to their self-employed status and discussions within chambers rather than a formal application.

"It is automatic under chambers' constitution. I was lucky enough to have an incredibly supportive female head of chambers and a reasonably supportive clerk." Self-employed barrister, applied for flexible working after the rules were introduced

"I was allowed to have one day a week out of court for 12 months following the birth of my second child and my rent went from a fixed rent to a percentage." Employed barrister, applied for flexible working before the rules were introduced

"There was no formal application for flexible working. Members who wish to work part-time or more flexibly can do so by liaising with the clerks or marking days out in their diary. This system works well." Self-employed barrister

41. A number of respondents (one in seven) described issues with their attempt to work flexibly. Some applications were denied, and some respondents were not offered rent reductions which made flexible working effectively impractical for them. Other issues raised were an impact on work allocation, or that flexible working was impractical due to the requirements of court work or criminal practice.

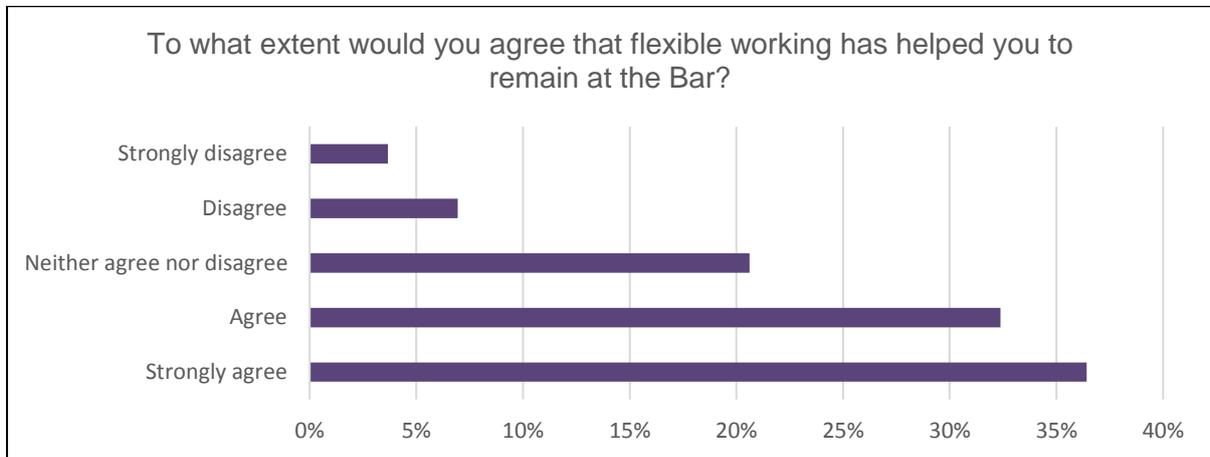
"I was told that chambers did not view it as possible to practise part time." Self-employed barrister, applied for flexible working before the rules were introduced

"Told I could have time off but I had to pay full rent and commission to chambers whilst not working for the period." Self-employed barrister, applied for flexible working both before and after the rules were introduced

"The quality of my work deteriorated and the senior clerk misinformed solicitors about my availability." Self-employed barrister, applied for flexible working before the rules were introduced

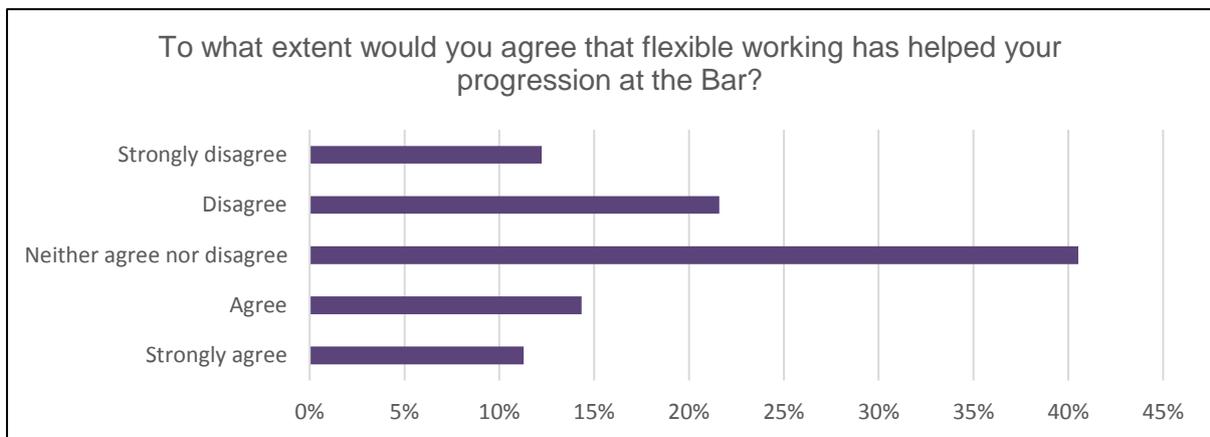
"Chambers' responses were fine - the problem is not in chambers it is in court where judges sit late." Self-employed barrister, applied for flexible working both before and after the rules were introduced

42. The majority of respondents who had applied for flexible working felt that it had helped them to remain at the Bar, with 68.8% either agreeing or strongly agreeing. However, 10.6% either disagreed or strongly disagreed that flexible working had helped them to remain at the Bar. Responses to this question differed significantly for self-employed and employed barristers, with 73.3% of self-employed respondents agreeing or strongly agreeing, compared to 49% of employed respondents.



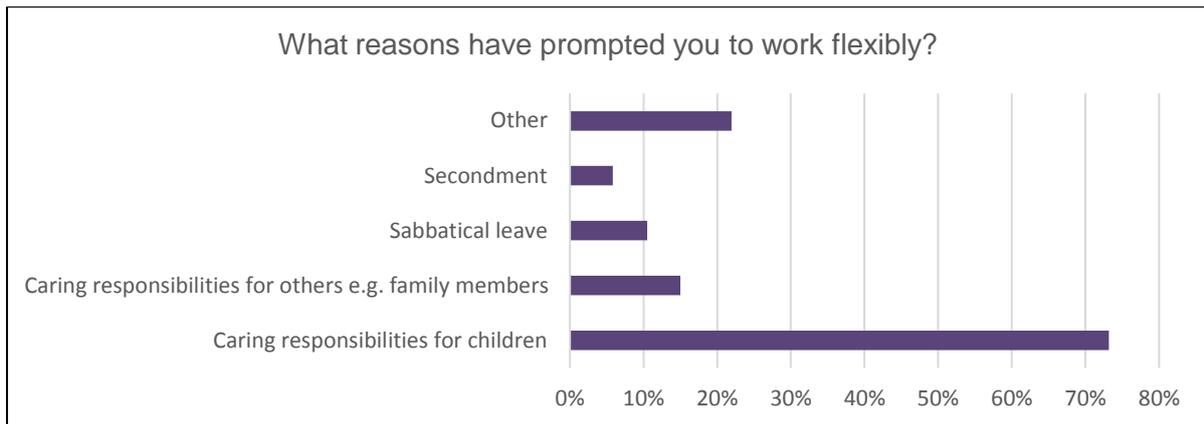
N=519

43. In contrast, respondents were far less positive about the impact of flexible working in supporting their progression at the Bar, with over a third of respondents (33.8%) disagreeing or strongly disagreeing that flexible working had helped their progression at the Bar, and only 25.6% agreeing or strongly agreeing.



N=523

44. Respondents who had applied for flexible working were most likely to give caring for children (73.2%) or caring for other family members (15.1%) as their reason for doing so. Alongside sabbatical leave and secondment, the most common "Other" reason given was for health reasons, mentioned by 7.7% of respondents.



N=533

45. Respondents were also asked about the impact flexible working had had on their practice. Over 60% of responses cited negative impacts on their practice or progression. The most common impact cited was an impact on the quality or quantity of work they received (mentioned in one in five responses) or an impact on their career progression (one in six responses). Over one in ten responses highlighted negative attitudes towards flexible working (from chambers, clients or clerks) as an issue that contributed to problems with flexible working. A smaller proportion (around one in twenty responses) stated that they had left self-employed practice entirely and moved to the employed Bar in response to the issues they experienced with flexible working.

“When I was working flexibly the quality and quantity of work nosedived. This lasted even after I came back to work full time.” Self-employed barrister, applied for flexible working before the rules were introduced

“[It has] severely curtailed any possibility of building or advancing my career. It has essentially enabled me to keep a toe-hold at the Bar until I can give more.” Self-employed barrister, applied for flexible working after the rules were introduced

“Clerks did not believe I was committed to [my] practice on return and the quality of work was poor on return.” Self-employed barrister, applied for flexible working before the rules were introduced

“The downside is that I don't feel able to admit to the fact that I work flexibly, because ‘part timers’ are not taken seriously in my line of work.” Self-employed barrister, applied for flexible working both before and after the rules were introduced

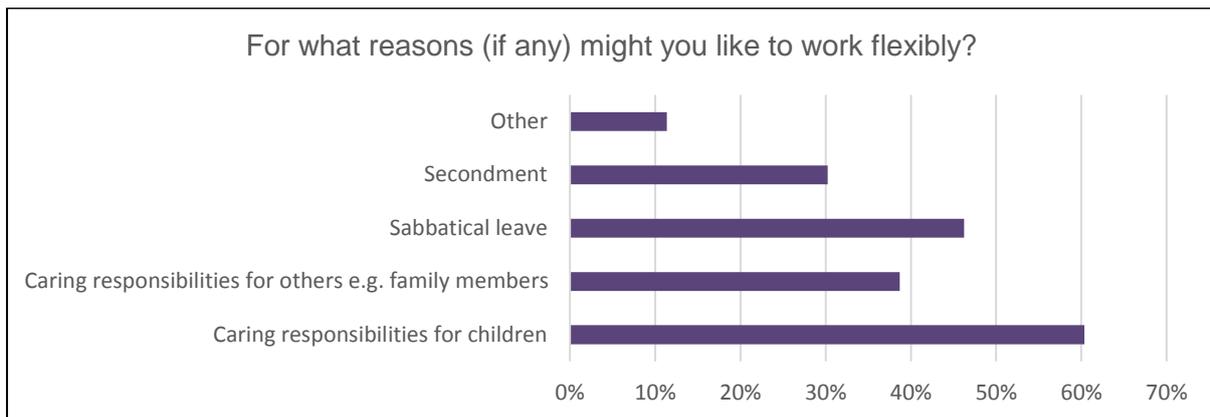
“I left practice as a self-employed barrister because there was no flexible working possible and have gone into the employed bar solely because flexible working is available, common and accepted.” Employed barrister, applied for flexible working after the rules were introduced

46. However, 40% of responses were largely positive about the impact of flexible working. One in four respondents stated that flexible working had not negatively impacted on their practice, and one in seven stated that being able to work flexibly had enabled them to continue as a barrister.

“I do not feel that my practice has suffered: I have exactly the amount of work that I require, and of a nature appropriate to my Call and experience.” Self-employed barrister, applied for flexible working after the rules were introduced

“It would be impossible for me to continue my career at the Bar without being able to work flexibly.” Self-employed barrister, applied for flexible working before the rules were introduced

47. Respondents who had not applied for flexible working were most likely to give caring for children as a reason they might wish to do so (60.4%). However, alternative reasons were more likely to be mentioned compared to the reasons given by those who had worked flexibly in the past (see paragraph 44), with 46.2% giving sabbatical leave and 30.3% giving secondment as reasons they would like to work flexibly.



N=651

48. Respondents who had never requested flexible working were asked if there had been any factors which had prevented them from doing so. Over 45% of respondents stated there was nothing that had prevented them from flexible working, but they had not applied for it, either as informal arrangements gave them enough flexibility or because they had no particular need to work flexibly.

“My chambers supports me in managing my own time. I have never requested flexible working but, if I am not in court, my time is my own.” Self-employed barrister

“Not at this stage. My practice means that I have a good balance of court work and paperwork.” Self-employed barrister

49. However, a number of responses mentioned issues that had prevented them from flexible working. The most common issue raised was concern around the impact it would have on income, given by more than one in five respondents. A significant proportion of those who raised concerns around income raised the issue of fixed chambers expenses as a reason why flexible working was impractical.

“Chambers insist I have a room and pay expenses whether I am working or not. I would have to give notice and hope I can get a tenancy a few years later.” Self-employed barrister

50. After income concerns, the most common factors that had prevented respondents from working flexibly were the problems with accommodating the demands of courtroom practice (particularly for the criminal Bar) and timetables with flexible working arrangements, and the attitudes taken towards flexible working within chambers and among solicitors and lay clients, both mentioned by over one in ten of respondents. Less commonly mentioned were concerns over work allocation, a negative impact on career progression, the availability of valuable support in chambers that would not be available elsewhere, or that requests to work flexibly had been rejected by chambers.

“Once criminal trials start in court they go on until they finish, every day. It is extremely difficult to control one's work and full time child care is required when kids are under school age.” Self-employed Queen's Counsel

“Courts do not operate at the convenience of counsel. Hearings regularly get delayed - not by minutes but by hours - and a lot of time is spent waiting at court.” Self-employed barrister

“Any woman in chambers who expresses a wish to work flexibly is frowned upon and does not get work from Silks. We have a policy in place - but the implementation and execution of the policy is non-existent.” Self-employed barrister

“I would be worried about being seen as someone who did not take their career seriously and so being less likely to receive time consuming or trickier work in the future.” Self-employed barrister

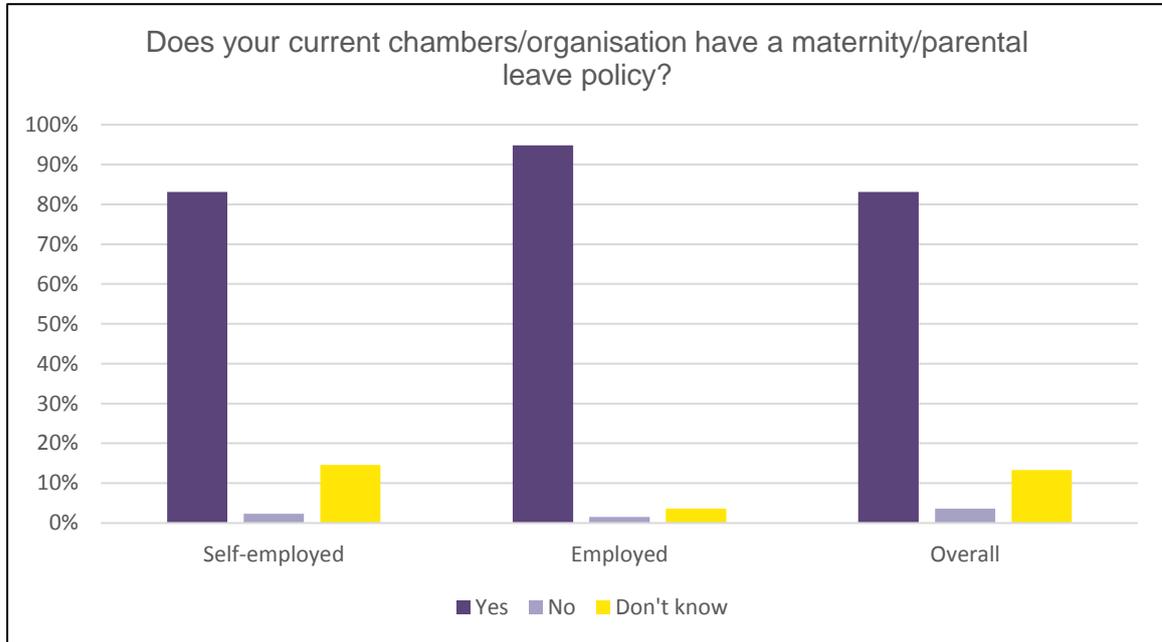
Maternity/Parental Leave

Key Findings – Maternity/Parental Leave

- The vast majority of respondents' organisations had a maternity/parental leave policy in place, with only a small proportion stating that a policy was not in place or they were unaware of it.
- Most respondents rated their organisation's maternity/parental leave policy positively.
- The majority of respondents were positive about the level of support they received from their organisation both before, during and after their maternity/parental leave.
- Respondents who took maternity/parental leave after the BSB's Equality Rules were introduced were more likely to be positive about the level of support they received before and during their maternity/parental leave.
- One in four who had taken maternity/parental leave said it had had not had a negative impact on their practice, but some cut their leave short to achieve this.
- Close to three in four cited negative impacts, however, with impact on work allocation and career progression the most common issues cited.
- Lack of support from chambers and negative attitudes from chambers and clients towards those returning from maternity/parental leave were mentioned as issues by many respondents.
- The difficulty of combining practice with caring responsibilities for children was mentioned by many respondents.

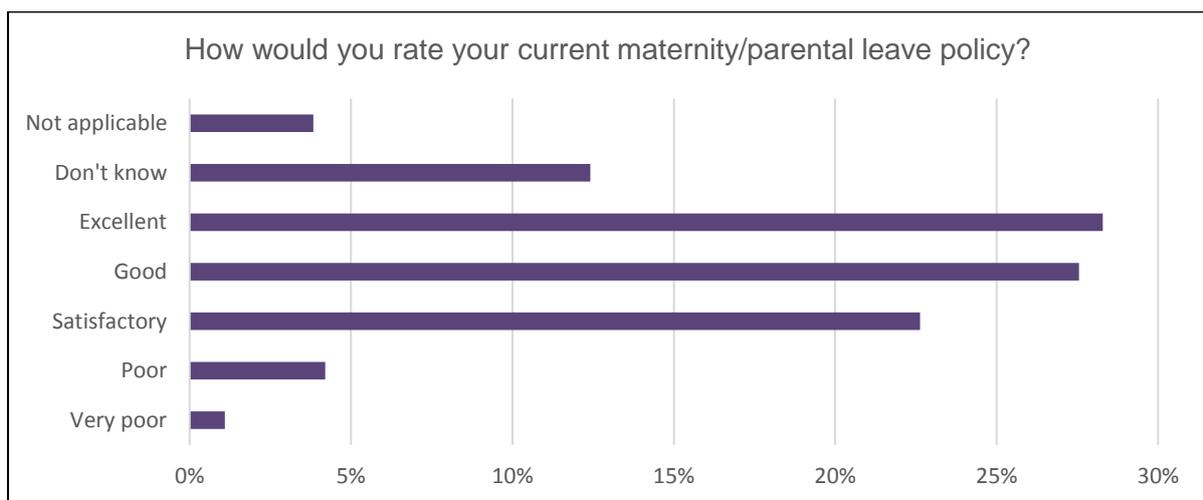
51. "Maternity/parental leave" refers to leave taken by the main carer of a child following birth or adoption. The employed Bar are covered by legislation relating to parental leave in the UK. Self-employed barristers are not covered by employment law and the BSB's Equality Rules require barristers to ensure chambers has a parental leave policy which must cover, as a minimum:
- the right of a member of chambers to return to chambers after a specified period (which must be at least one year) of parental or adoption leave;
 - the extent to which a member of chambers is or is not required to contribute to chambers' rent and expenses during parental leave;
 - the method of calculation of any waiver, reduction or reimbursement of chambers' rent and expenses during parental leave;
 - where any element of rent is paid on a flat rate basis, the chambers policy must as a minimum provide that chambers will offer members taking a period of parental leave, or leave following adoption, a minimum of 6 months free of chambers' rent;
 - the procedure for dealing with grievances under the policy;
 - chambers' commitment to regularly review the effectiveness of the policy;
52. The survey asked respondents about their chambers' or organisation's maternity/parental leave policies and if they had experience of taking maternity/parental leave while at the Bar. A substantial majority of respondents stated that their organisation had a maternity/parental leave policy (83.1%). However, responses varied dependant on the practising status of respondents. Self-employed barristers in chambers were significantly more likely to be unaware whether their organisation had a maternity/parental leave policy (14.6%) than employed barristers (3.6%). Responses to this question also differed significantly by year of Call, with more senior barristers less likely to be unaware of their organisation's policy – 8% of respondents of 25+ years of

Call were unaware whether their organisation had a maternity/parental leave policy compared to 21.6% of those under 5 years of Call. Similarly, the proportion of those with primary caring responsibilities for children who were unaware of their organisation's maternity/parental policy was significantly lower (at 8%) than for respondents who did not have primary caring responsibilities for children (16.6%).



N=1322

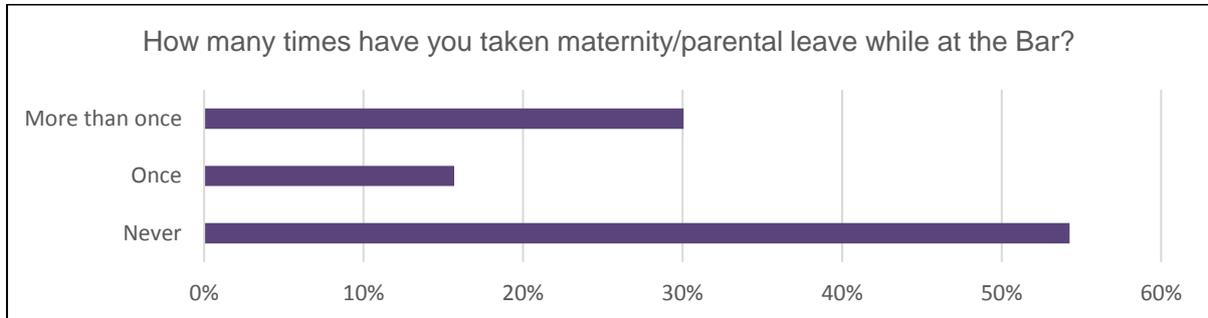
53. 55.9% of respondents whose organisation had a maternity/parental leave policy rated it as “good” or “excellent”, with only 5.3% of respondents rating the policy as “poor” or “very poor”. There were significant differences in responses to this question depending on whether an organisation had consulted on its equality policy or not (see paragraph 74). For respondents whose organisation had consulted, 67.2% rated their maternity/parental leave policy as “good” or “excellent”, whereas for organisations that had not consulted 28.4% rated the policy “good” or “excellent”.



N=1096

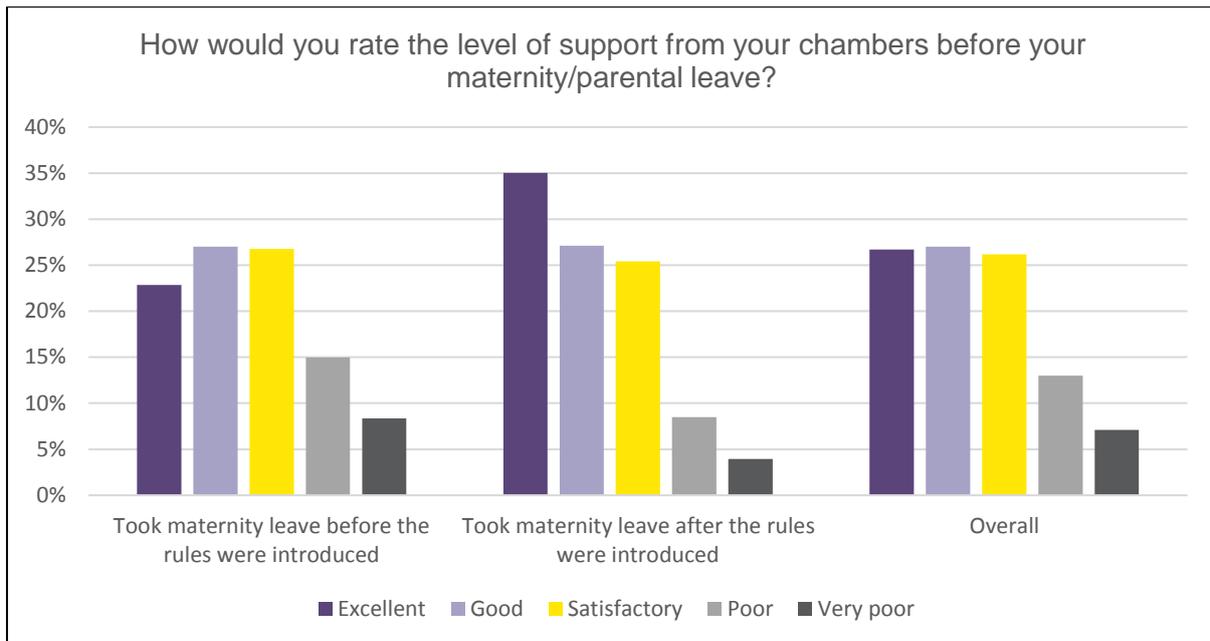
54. 54.3% of respondents had never taken maternity/parental leave at the Bar. There was a significant difference in responses to this question between respondents whose organisation had a maternity/parental leave policy (50.5% of whom had never taken maternity/parental leave), those whose current organisation did not have a

maternity/parental leave policy (60.4% of whom had never taken maternity/parental leave) and respondents who did not know whether or not their organisation had a maternity/parental leave policy (76% of whom had never taken maternity/parental leave). In contrast, there was no significant difference in responses related to respondent's current status as employed or self-employed barristers.



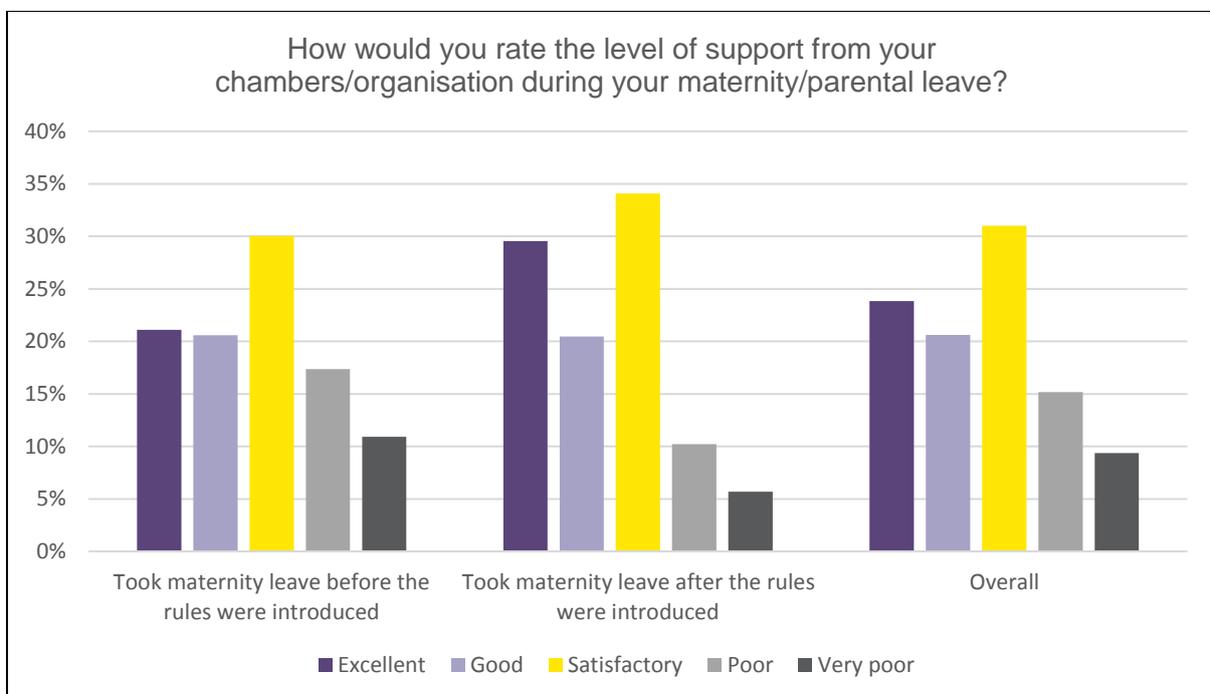
N=1327

55. Unsurprisingly, responses for this question differed significantly dependent on whether respondents were currently primary carers for children, with 90.4% of those with primary caring responsibilities for children having taken maternity/parental leave at least once while at the Bar. In contrast, only 11% of those who were not a primary carer for children had taken maternity/parental leave.
56. 68.8% of respondents who had applied for maternity/parental leave did so before the equality rules were introduced. Only 1.3% of respondents had taken maternity/parental leave both before and after the equality rules were introduced, with the remainder (29.9%) taking maternity/parental leave after the introduction of the rules.
57. Respondents were generally positive about the level of support they had received from their organisation prior to taking maternity/parental leave, with 53.7% rating the level of support as either "good" or "excellent". However, there were differences in responses to this question dependent on whether they took maternity/parental leave before or after the Equality Rules were introduced. Those who took maternity/parental leave after the Rules were introduced were more likely to rate the level of support as "good" or "excellent" (62.1%) than those who took maternity/parental leave before the rules were introduced (49.9%).



N=594

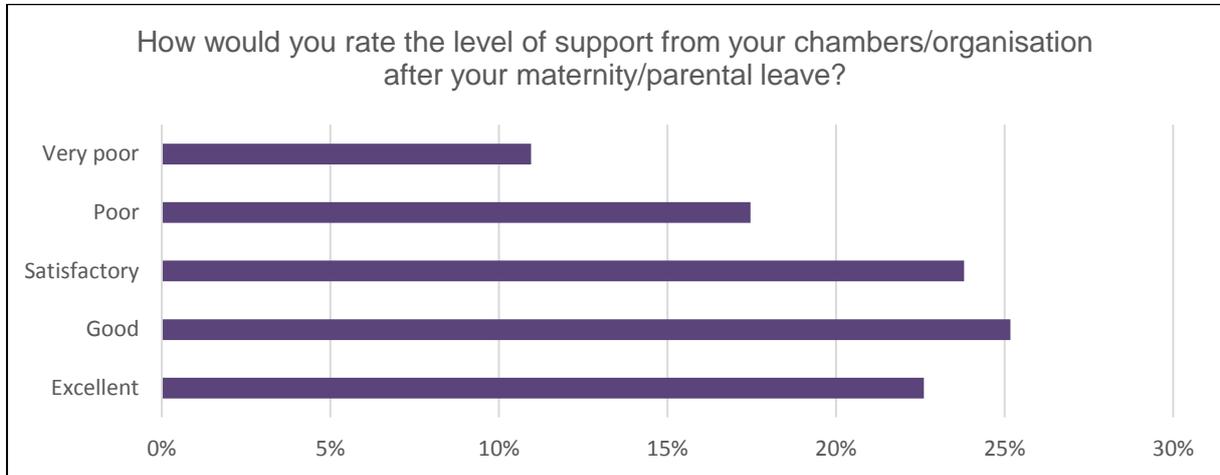
58. Respondents were slightly less positive about the level of support they received from their chambers during maternity/parental leave, with 44.5% rating the level of support as “excellent” or “good”. There were differences in responses to this question dependent on whether respondents took maternity/parental leave before or after the Equality Rules were introduced. Those who took maternity/parental leave after the Rules were introduced were more likely to rate the level of support as “excellent” or “good” (50%) and less likely to rate the support as “poor” or “very poor” (15.9%) than those who took leave before the rules were introduced (41.6% and 28.3% respectively).



N=587

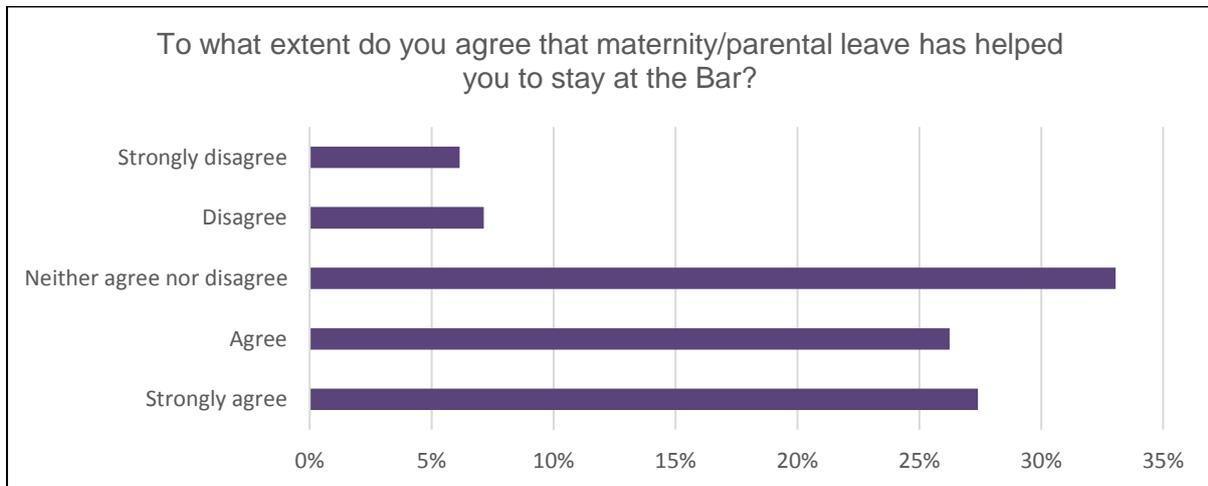
59. Respondents were generally positive about the level of support they received from their organisation when they returned from maternity/parental leave, with 47.8% rating the level of support as “excellent” or “very good”. However, a higher proportion of

respondents rated the support they had received on return from maternity leave as “poor” or “very poor” (28.5%) than rated the support received support before or during their maternity/parental leave negatively (20.1% and 24.6% respectively). Unlike the questions relating to support before and during maternity/parental leave, there were no significant differences in responses to this question for respondents who took maternity/parental leave before or after the Rules were introduced.



N=584

60. 53.6% of respondents felt that maternity/parental leave had enabled them to stay at the Bar. Only 13.2% answered “strongly disagree” or “disagree”, although close to a third of respondents (33.1%) neither agreed nor disagreed.



N=602

61. Respondents were asked whether they thought taking maternity/parental leave impacted on their practice or their progression. Over one in four respondents said that taking maternity/parental leave had not had any negative impact on their practice or progression. In a number of cases, respondents stressed that they had ensured they took only a short period of maternity/parental leave in order to avoid any negative impact on their practice.

“Not at all, the process was very flexible and accordingly had no adverse impact on my practice.” Self-employed barrister, took parental leave before the Rules introduced

“I am in house so the organisation is used to staff taking Parental leave.” Employed barrister, took parental leave after the Rules introduced

“My chambers (clerks and Head of Chambers) were very supportive both about the length of maternity leave and on my return.” Employed barrister, took parental leave before the Rules introduced

“No, but only because I felt I had no choice but to return to work much sooner than I would have liked because earning no income save for statutory maternity pay put the family under enormous financial pressure.” Employed barrister, took parental leave before the Rules introduced

“No, because I only took 11 and then 12 weeks. In fact during my second leave I was required to undertake a case when my son was 3 weeks old. I could have refused but was strongly encouraged not to.” Self-employed barrister, took parental leave before the Rules introduced

62. Over 70% of respondents said that taking maternity/parental leave had had an impact on their practice or progression, often significantly. The most common issues raised were an impact on their level of work, and on their progression, both specifically mentioned by one in ten respondents. Other issues mentioned were a loss of clients and contacts, and financial issues due to a drop in income (often exacerbated by fixed chambers costs).

“There was an inevitable drop in my work because I had been away for so many months. It took some time to build up the work again.” Self-employed barrister, took parental leave before the Rules introduced

“It has completely halted my progression and my practice has declined.” Self-employed barrister, took parental leave after the Rules introduced

“I had a baby before there was any sort of policy in relation to maternity leave. There was no special provision whatsoever, you continued to pay full chambers expenses and were simply not working.” Self-employed barrister, took parental leave before the Rules introduced

63. A number of respondents mentioned a lack of support from chambers on their return from maternity/parental leave. A change in attitudes, both within chambers and from clients, towards barristers with children was also highlighted by around 5% of respondents. A similar number of respondents stated that they had left self-employed practice altogether and moved to the employed Bar as a result of the difficulties they faced returning from maternity/parental leave.

“My previous chambers treated me very poorly after my first child - very little work and no planning for when I got back.” Self-employed barrister, took parental leave before the Rules introduced

“No-one spoke to me for a year after I returned. The expectation was that I would not cope and would disappear off.” Self-employed barrister, took parental leave before the Rules introduced

“It forced me to leave chambers to take up employment in order to deal with childcare.” Employed barrister, took parental leave before the Rules introduced

64. Respondents were also asked for any additional comments about maternity/parental leave. One in three who responded cited a lack of support from their chambers or

organisation as an issue. The most common issue cited was negative attitudes to those taking or returning from maternity/parental leave within chambers, mentioned in one in seven responses to this question. Other issues mentioned included concerns around chambers costs during maternity/parental leave or on their return, a lack of support marketing them and generating work, a lack of communication, and a gap between policies in place and the actual implementation of policies.

“Although superficially supportive once you've taken leave you're classed by Chambers as having 'other' priorities. It's automatically assumed you're the second earner and therefore not really 'committed' to the Bar.” Self-employed barrister, took parental leave before the Rules introduced

“My chambers have a "flat rate" rent policy and an option to defer rent on return from maternity leave. I have found this doesn't support members returning to work as you are effectively in debt to chambers at a time when work is still slow coming in.” Self-employed barrister, took parental leave after the Rules introduced

“There was no reassurance provided from chambers and really they weren't in contact with me at all.” Self-employed barrister, took parental leave after the Rules introduced

“My chambers has a good policy on maternity leave. The implementation and knowledge of the policy is poor.” Self-employed barrister, took parental leave after the Rules introduced

65. One in five responses to this question highlighted a drop in income or levels of work on their return to practice as a concern. A similar proportion of responses stated that the subsequent demands of practice for those with caring responsibilities were the main issue with taking maternity/parental leave, rather than the initial leave period. More than one in ten respondents stated they had taken less maternity/parental leave than they wanted, or been forced to cut it short, due to concerns about their practice or their income.

“I have lost clients who have transferred their regular instructions to other members of chambers and not returned to me.” Self-employed barrister, took parental leave before the Rules introduced

“It is difficult upon return as you have the added burden of childcare to pay for and my practice was slow to restart on return, thus my income was low.” Self-employed barrister, took parental leave before the Rules introduced

“I found it impossible to return to private practice after my first child as the Bar could not accommodate my working anything less than full time.” Employed barrister, took parental leave before the Rules introduced

“I felt obliged to return to work much sooner than I would have liked because I felt that my career and practice was slipping away from me.” Self-employed barrister, took parental leave after the Rules introduced

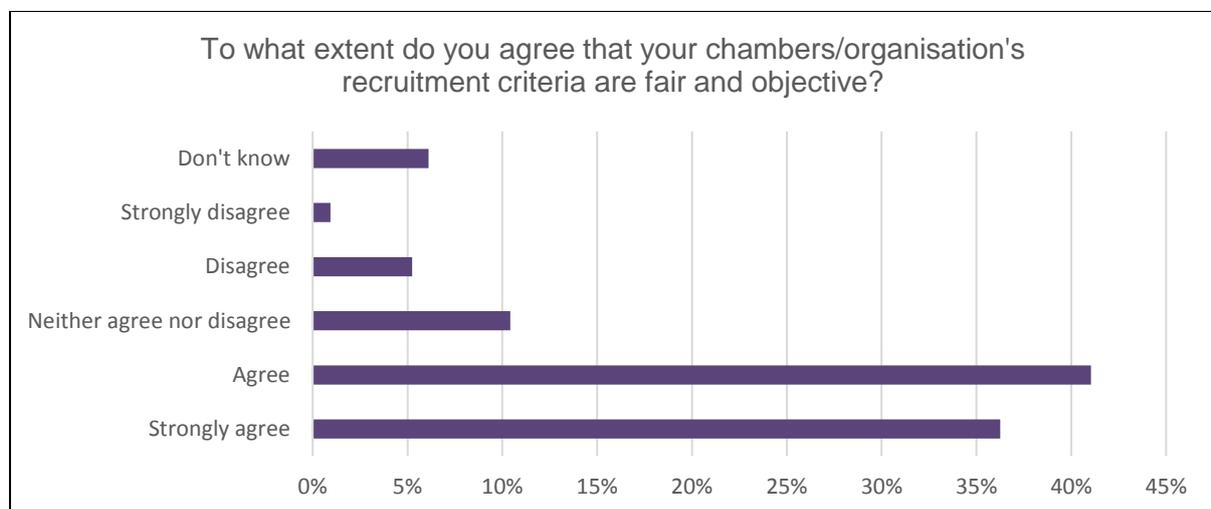
Recruitment

Key Findings – Recruitment

- The vast majority of respondents felt that recruitment at their organisation was fair and objective, with self-employed barristers more likely to be positive than employed barristers.
- Most respondents had had at least some involvement in recruitment, with sitting on an interview panel the most common experience cited
- The majority of respondents stated their organisation undertook fair recruitment training, with self-employed barristers more likely to say that panels undertook training than employed barristers were.

66. The legal requirements set out in the Equality Act 2010 includes a prohibition on discrimination in recruitment and selection. The BSB's Equality Rules require every member of a selection panel to be trained in fair recruitment and selection processes (except in unforeseen and exceptional circumstances). All chambers and BSB authorised bodies must also ensure recruitment and selection processes use objective and fair criteria.

67. The survey asked respondents about their opinion and experiences of their chambers' or organisation's recruitment practices. The majority of respondents felt that recruitment at their organisation or chambers was fair, with 77.3% either agreeing or strongly agreeing with the statement, and only 6.1% disagreeing. Self-employed barristers were significantly more likely to agree that recruitment processes were fair than employed barristers, with 80.3% agreeing or strongly agreeing with the statement compared to 65.6% of employed barristers.



N=1273

68. Respondents were asked if they had been involved in recruitment at their organisation. The majority of respondents had been involved in at least some aspects of recruitment, with only 12.3% of respondents stating they had had no involvement with recruitment.



N=1096

69. 65.4% of respondents said their recruitment panels undertook fair recruitment training. Self-employed barristers were more likely to say their panels undertook the training (69.2%) than employed barristers (50.5%). A small proportion of self-employed barristers stated their organisation's panel members did not undertake the training (5.7%). A substantial proportion of respondents did not know whether or not their organisation's panel members had undertaken the training (27.2%).



N=1278

70. The most common type of training undertaken by panel members was classroom-style training - 54.3% stated their panel members undertook this type of training. Other responses were online study, private training, or a combination of different types of training.

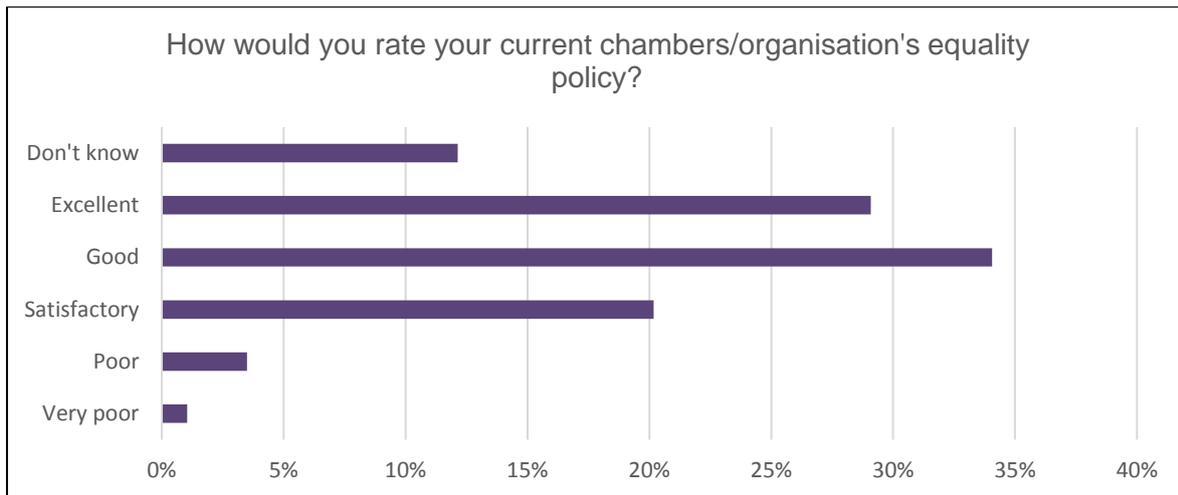
Equality and Harassment Policies

Key Findings – Equality and Harassment Policies

- 89.2% of respondents' organisations had an equality policy in place, with only a small proportion stating that a policy was not in place or they were unaware of it.
- The majority of respondents rated their organisation's equality policy positively.
- Around half of respondents said their organisation had consulted over their equality policy.
- A wide range of approaches to consultation were detailed, with only a small proportion of respondents critical of the level of consultation that had taken place.
- Awareness of harassment policies was far lower than awareness of equality policies, with close to half of self-employed respondents unaware whether their organisation had a harassment policy, and one in four employed respondents unaware.
- The majority of respondents rated their organisation's harassment policy positively.

Equality Policies

71. The BSB's Equality Rules require that barristers must take reasonable steps to ensure that in relation to their chambers or BSB authorised body there is in force a written statement of policy on equality and diversity and there is in force a written plan implementing the policy. The Equality Rules also require the barrister's chambers or BSB authorised body to conduct regular reviews of its policy on equality and diversity and of its implementation and to take remedial action identified in the light of that review. The survey asked respondents whether their chambers or organisation had an equality policy, their views of the policy, and if their organisation had consulted over their equality policy.
72. The vast majority of respondents stated their organisation had an equality policy (89.2%). Some respondents did not know whether their organisation had an equality policy or not (9.9%), whereas less than one percent (0.9%) stated their organisation did not have an equality policy.
73. The majority of respondents felt their organisation's equality policy was "good" or "very good" (63.2%), with only 4.5% rating the policy as "poor" or "very poor". For respondents whose organisation had consulted over their equality policy (see paragraph 74), 79.1% rated their equality policy as "good" or "excellent", whereas for organisations that had not consulted, 34% rated the policy "good" or "excellent".



N=1145

74. 50.3% of respondents stated that their organisation had consulted with staff or members over their equality policy. Only a small proportion stated that their organisation had not consulted (12.1%) with the remainder of respondents not being aware whether or not the organisation had consulted (37.6%).

75. Respondents whose organisation had consulted over their equality policies were asked what level of consultation had taken place. Levels of engagement varied across respondents. Over a third of respondents stated that all members of chambers were consulted over the policy itself, with a further 10% stating that all members voted on the policy (even if in some cases they had not been significantly consulted in developing the policy itself). Close to 20% of respondents stated that policies were developed at a management or committee level, although in many of these cases members were subsequently asked to approve or vote on the policy. A small proportion of respondents also mentioned that chambers staff had been consulted as well as members (5%). The vast majority of respondents were positive about the level of consultation that had taken place over the policy. Employed respondents mentioned organisation-wide consultations, seeking input on draft policies, and consulting with relevant networks, committees, and trade unions.

"The draft policies are put out for consultation to the whole of chambers and eventually approved by the whole of chambers." Self-employed Queen's Counsel

"The original policy, and any amendments, have been voted on at chambers' meetings so all members have had the opportunity to provide input." Self-employed barrister

"It is discussed at management committee level. Management committee minutes are circulated round chambers." Self-employed Queen's Counsel

"My organisation consulted employee networks and the relevant trade union." Employed barrister

76. A small proportion of respondents (around 5%) said their organisation had only limited consultation over the policy, with some respondents critical of the level of consultation that had taken place.

"Heads of Chambers speaking to individuals. Not good enough, in my view." Self-employed barrister

77. When asked whether their organisation's equality policy addressed discrimination, the majority of respondents answered that it did (79.8%). A very small proportion of respondents felt the policy did not address discrimination (1.7%) with the remainder not sure whether the policy addressed discrimination or not (18.4%). When asked if the policy encouraged people to report discrimination, a smaller majority answered that it encouraged reporting (58.7%), with 6.6% of respondents answering that the policy did not encourage reporting, and 34.8% not sure whether the policy encouraged reporting or not.

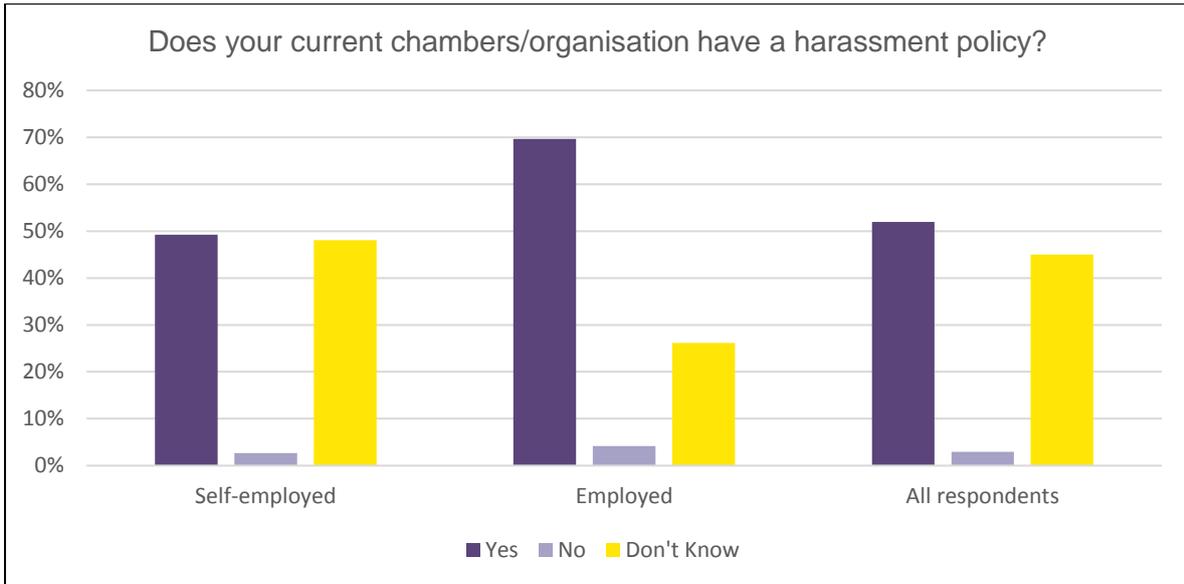
Harassment Policies

78. Harassment is unlawful under the Equality Act 2010. Harassment is any form of unwanted conduct relating to a relevant protected characteristic¹¹ which has the effect or purpose of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment (or in some cases, a witness to the conduct). The BSB's Equality Rules require barristers to ensure that their chambers or BSB authorised body has a written anti-harassment policy which states that harassment will not be tolerated or condoned and that managers, employees, members of chambers, pupils and others temporarily in chambers or the BSB authorised body, such as mini-pupils, have a right to complain if it occurs. The policy should set out how the policy will be communicated and the procedure for dealing with complaints of harassment.
79. In January 2014 the BSB Handbook introduced a duty on all barristers to report serious misconduct by other barristers or registered European lawyers to the BSB¹². Assault and harassment are given as examples of serious misconduct in the BSB's guidance.
80. 52% of respondents stated that their organisation had a harassment policy. 45% of respondents did not know whether their organisation had a harassment policy or not. Self-employed barristers were far more likely to not know about harassment policies, with 48.1% of self-employed respondents answering that they did not know whether their organisation had a harassment policy, in contrast with 26.2% of employed barristers. Responses to this question also differed significantly by seniority by year of call, with more senior barristers less likely to be unaware of their organisation's policy – 37.3% of respondents of 15+ years of call were unaware if their organisation had a harassment policy compared to 52.7% of those under 15 years of call.

¹¹ Protected characteristics are listed in Section 4 of the Equality Act 2010, these are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

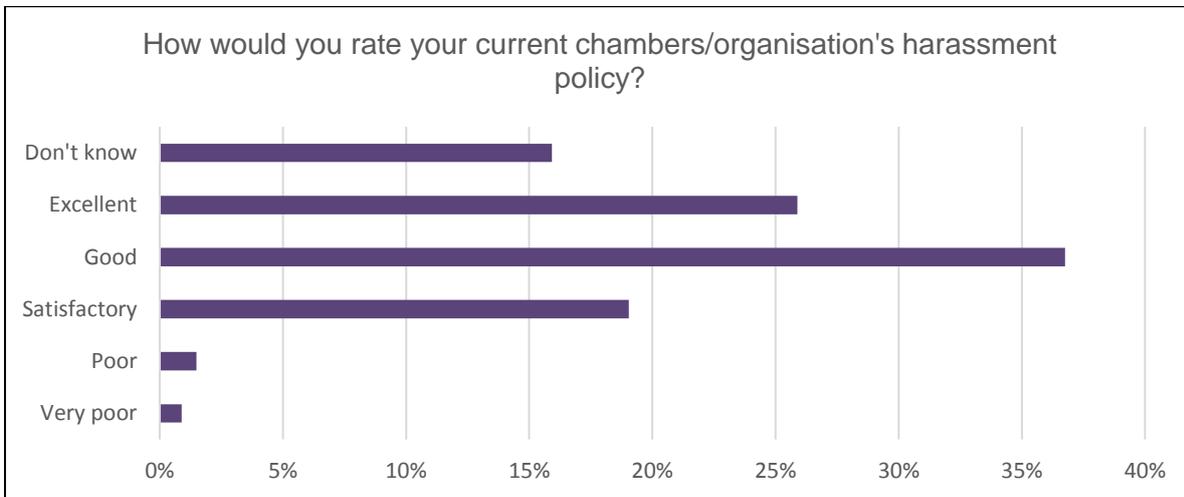
¹²

https://www.barstandardsboard.org.uk/media/1666565/reporting_serious_misconduct_of_others__august_2015_.pdf



N=1281

81. The majority of respondents felt their organisation’s harassment policy was “good” or “excellent” (62.7%), with only 2.4% rating the policy as “poor” or “very poor”. There were significant differences in responses to this question depending on whether an organisation had consulted on its equality policy or not. For respondents whose organisation had consulted on their equality policy (see paragraph 74), 74% rated their harassment policy as “good” or “excellent”, whereas for organisations that had not consulted 39.4% rated the policy “good” or “excellent”.



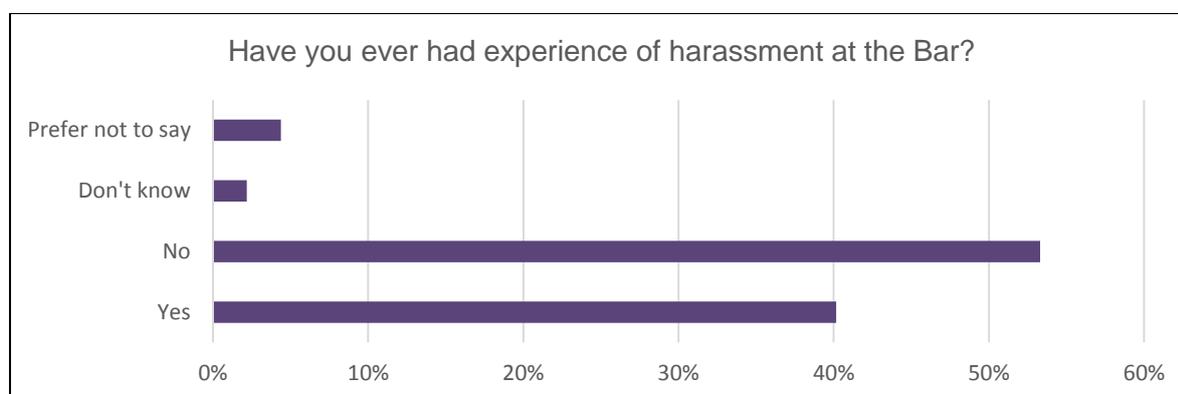
N=672

Experience of Harassment

Key Findings – Harassment

- While around half of respondents said they had not experienced harassment at the Bar, two in five respondents said they had experienced harassment.
- Most respondents who said they had experienced harassment did not report it.
- Respondents were more likely to report harassment if they had experienced it after the Equality Rules were introduced.
- For those who reported harassment, half were satisfied with the response and half were dissatisfied, with an inadequate response, a failure to take the complaint seriously, and an impact on their career the most common issues cited by respondents who were dissatisfied with the response.
- Concern about the impact on their career, attitudes at the Bar towards harassment (and the reporting of harassment), or feeling that the harassment was not worth reporting were the most common reasons for not reporting.
- Where details of the harassment were given, half were within the respondent's chambers or organisation and half were external to the chambers or organisation. A high proportion said that they had experienced harassment as pupils.

82. 53.3% of respondents said they had not experienced harassment at the Bar. 40.2% of respondents stated that they had experienced harassment¹³. There were no significant differences in proportions across employed and self-employed respondents.



N=1333

83. Experiences of harassment also differed significantly by ethnicity – 48% of BME respondents reported experiencing harassment, compared to 38.4% of white respondents. There were no significant differences for any other protected characteristics in the proportions of respondents who stated they had experienced harassment at the Bar.

84. There were significant differences dependent on the respondent's year of call – 34.5% of those under 15 years of call said they had experienced harassment, compared to 45.3% of respondents of 15+ years of call. The proportion of respondents who stated they had experienced harassment at the Bar is shown by Year of Call in the table below. This suggests that while levels of harassment have declined from historical levels (i.e. the levels present 15 or more years ago) there has been no significant fall since then.

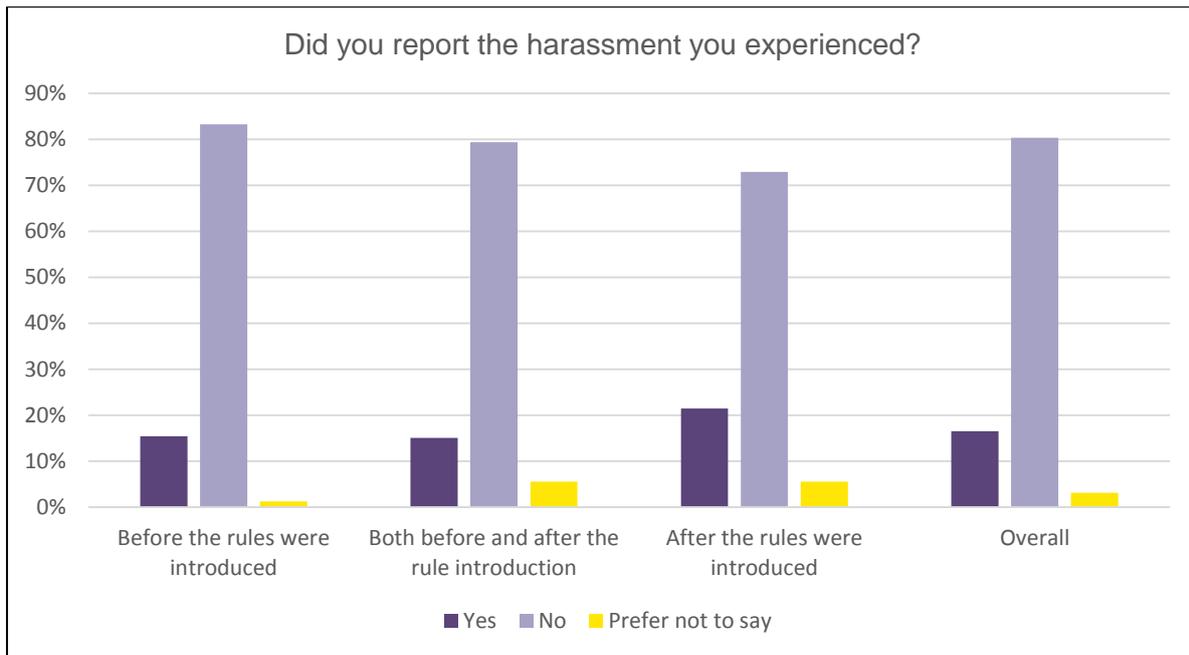
¹³ Harassment as defined in the Equality Act 2010 covers a wide range of behaviours (see paragraph 78). As part of this question, the survey included the legal definition of harassment.

	Years of Call					Overall
	0-4	5-9	10-14	15-19	20+	
Experienced harassment	34.4%	35.2%	33.9%	40.6%	48.7%	40.2%

85. Of those who indicated that they had experienced harassment at the Bar, 56.7% experienced harassment before the Equality Rules were introduced, 20.1% after the Equality Rules were introduced, and 23.2% both before and after the Rules were introduced. Responses to this question were strongly linked to the respondent's years of call. The table below shows (for respondents who said that they had experienced harassment) whether the harassment took place before or after the Rules were introduced, by the respondent's year of call. For respondents of greater years of call, harassment was more likely to have been said to have occurred solely before the rules were introduced, whereas for respondents with lower years of call, harassment was more likely to have been said to have occurred solely after the rules were introduced.

	Years of Call					Overall
	0-4	5-9	10-14	15-19	20+	
Experienced harassment before the Equality Rules were introduced	2.1%	26.3%	52.8%	69.9%	78.8%	56.7%
Experienced harassment before & after the Equality Rules were introduced	4.2%	34.7%	41.6%	21.4%	15.3%	23.2%
Experienced harassment after the Equality Rules were introduced	93.8%	38.9%	5.6%	8.7%	5.9%	20.1%

86. The majority of those who stated that they had experienced harassment (80.3%) did not report the harassment they experienced. Responses to this question varied dependent on whether the harassment occurred before or after the introduction of the equality rules – 72.9% of those who said that they had experienced harassment after the Rules were introduced did not report it, compared to 83.3% of those who said that they experienced harassment before the Rules were introduced.



N=602

87. Reporting of harassment did not differ significantly by age, seniority, or ethnicity, with similar proportions reporting and not reporting harassment across all groups of respondents.

88. Respondents who had reported harassment were asked about their experience of doing so. Responses were equally split between those who were satisfied or largely satisfied with how their report had been dealt with, and those who were dissatisfied or largely dissatisfied. Just under half of respondents to this question were satisfied with the response. A small proportion of respondents did not specify whether they were satisfied or dissatisfied with the response to their reporting of harassment, often because the issue was still ongoing.

“Was dealt with in a swift and appropriate manner by senior members of chambers.”
Self-employed barrister, experienced harassment before the Rules introduced

“The report was dealt with in a discrete and professional manner and all issues were resolved (and it goes without saying that there were no ramifications for me).” Self-employed barrister, experienced harassment after the Rules introduced

89. Just under half of respondents to this question were not satisfied with how the report had been handled. Where particular issues were detailed, these included an inadequate (or non-existent) response from their Head of Chambers or chambers management, a failure to take the complaint seriously, or a negative impact on their career progression. Several respondents also highlighted inadequate responses from the Bar Council or Bar Standards Board.

“The head of chambers was not interested and did not want to investigate the complaint or make an effort to stop the harassment.” Self-employed barrister, experienced harassment before the Rules introduced

“Neither my chambers at the time nor the Bar Council took my complaint seriously.”
Self-employed barrister, experienced harassment before the Rules introduced

“Those at the top did not want to know, my career suffered and I was made to believe it was my fault.” Self-employed barrister, experienced harassment before the Rules introduced

90. Survey respondents who had not reported the harassment which they had experienced were asked for their reasons for not doing so. The most common reason given for not reporting the harassment was that it would have harmed their career prospects, which was cited as a reason by over 40% of respondents. Among the particular issues cited were that it would have harmed their prospects of tenancy, would have gained them a reputation as a “troublemaker”, or would have impacted on obtaining work from solicitors or work allocation.

“I felt that it would be of detriment to my career. I have seen people report harassment and they were the ones who suffered negative consequences. I think the situation is unacceptable.” Employed barrister, experienced harassment before and after the Rules introduced

“I was too scared about my ability to pursue my career if I complained and was labelled a trouble-maker.” Self-employed barrister, experienced harassment before the Rules introduced

91. Over a quarter of those who did not report harassment answered that they did not feel it was worth reporting. Reasons given were that it was not serious enough to warrant reporting, that they were able to deal with the issue informally without reporting it, or that they did not feel that reporting it would result in a satisfactory outcome.

“I considered it was something that people have to endure from time to time and it was not so serious that I felt it necessary to complain formally.” Employed barrister, experienced harassment before the Rules introduced

“Because I was able to deal with it entirely satisfactorily on my own terms and obtained an apology.” Self-employed barrister, experienced harassment before the Rules introduced

92. Close to a quarter of those who did not report harassment gave cultural attitudes at the Bar towards harassment, or the reporting of harassment, as the reason they did not report it. One in seven cited the greater seniority of the individual(s) involved as the reason they did not report harassment.

“It was the kind of behaviour that was endemic at the time and therefore largely tacitly accepted.” Self-employed barrister, experienced harassment before the Rules introduced

“The culture is not one where people feel able to complain. My head of chambers was aware and did not want to even entertain a complaint of sexist, bullying conduct.” Self-employed barrister, experienced harassment before and after the Rules introduced

“I was very junior and it was a short lived incident involving a very senior member of chambers. It was an occupational hazard that senior males might act inappropriately with young women at the Bar.” Self-employed barrister, experienced harassment before the Rules introduced

93. Where respondents (both those who had and had not reported the harassment) gave details of the harassment they said they had experienced¹⁴, slightly over half of the instances cited involved harassment by someone within their organisation (including from their Head of Chambers, their pupil supervisor, or from clerks). Slightly under half involved harassment from someone external (other barristers, judges and both lay and solicitor clients were all mentioned). Over half of those who provided details of the harassment they had experienced stated that it had occurred during pupillage. Responses that detailed harassment from individuals within their organisation were roughly twice as likely to have come from respondents who had reported the harassment than those that involved harassment from external individuals.

“The person harassing me was my head of chambers, who according to our chambers handbook was also the person I should have reported the conduct complained of to.”

Self-employed barrister, experienced harassment after the Rules introduced

“A male solicitor told me in exchange for favours he could give me work.” Employed barrister, experienced harassment before the Rules introduced

“I experienced extreme sexual harassment during pupillage from one of my pupil supervisors.” Self-employed barrister, experienced harassment after the Rules introduced

“I was a pupil in chambers at the time and was in a vulnerable position. I didn't feel empowered to report it.” Employed barrister, experienced harassment before the Rules introduced

¹⁴ Note that the survey did not specifically ask respondents to provide details relating to the nature of the harassment they experienced. As a result, the majority of respondents did not provide details, and the findings in this paragraph should be treated with caution as they may not be representative for all respondents who experienced harassment.

Experience of Discrimination

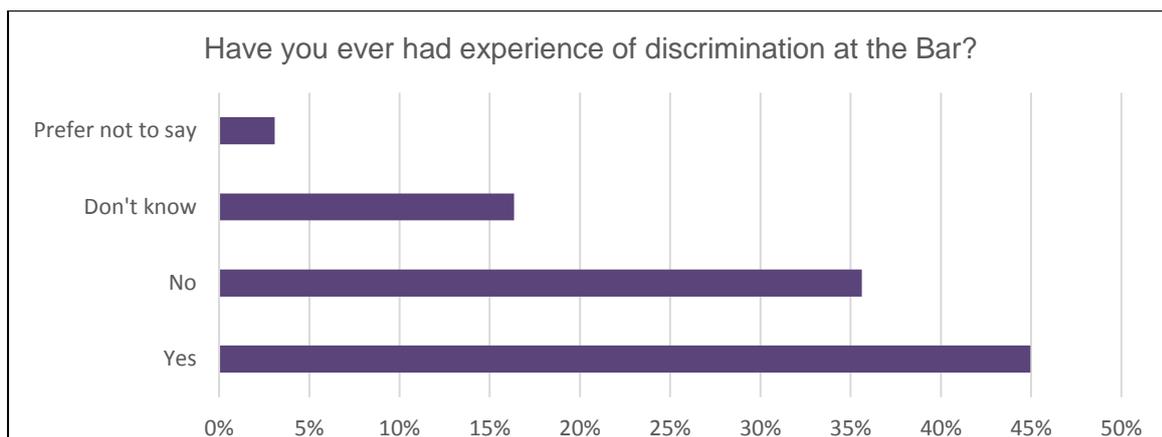
Key Findings – Discrimination

- 45% of respondents said they had experienced discrimination at the Bar, with 35.6% saying that they had not
- Over 78% of respondents who said they had experienced discrimination did not report it
- For those who reported discrimination, two thirds were dissatisfied with the response and only a third were satisfied, with an inadequate response, a failure to take the complaint seriously, impact on their career, and an impact on attitudes towards them the most common issues cited when dissatisfied
- Concern about the impact on their career, that reporting would not achieve anything, and attitudes at the Bar towards discrimination (and the reporting of discrimination), were the most common reasons for not reporting
- Where details of the experience of discrimination were given, three fifths were within the respondent's chambers or organisation and two fifths external to the chambers or organisation. The majority of internal discrimination related to clerks and work allocation

94. The Equality Act 2010 prohibits discrimination in relation to protected characteristics. The core anti-discrimination duty is set out at Core Duty 8 in the BSB Handbook which states “you must not discriminate unlawfully against any person” and applies to all barristers. A person directly discriminates against another if because of a protected characteristic they treat that person less favourably than they treat or would treat others¹⁵. Indirect discrimination occurs where an apparently neutral provision, criterion or practice has, or would have, a disadvantageous impact upon a particular group compared with others¹⁶.
95. In contrast to the question about harassment, a higher proportion of respondents (45%) stated that they had experienced discrimination than stated they had not experienced discrimination (35.6%). In contrast to the question on harassment (see paragraph 82), respondents were significantly more likely to answer that they did not know if they had experienced discrimination (16.3%) than said they did not know if they had experienced harassment (2.2%).

¹⁵ Section 13 Equality Act 2010

¹⁶ Section 19 Equality Act 2010

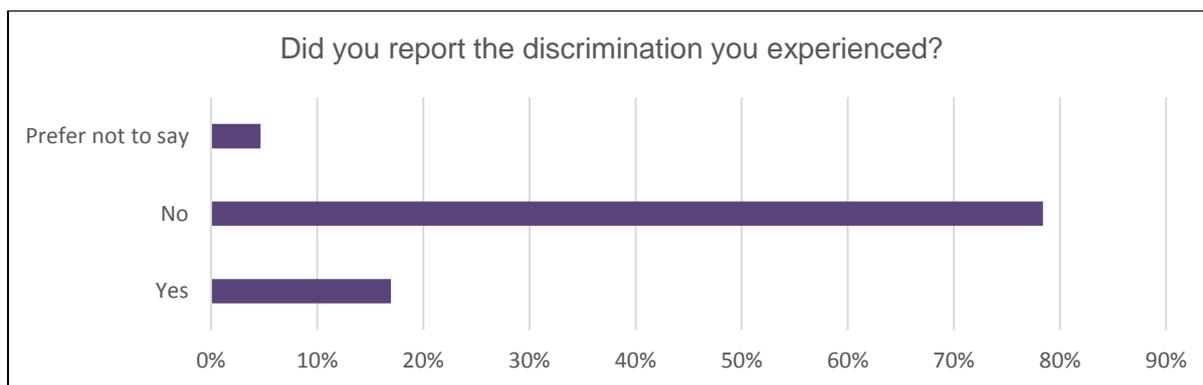


N=1328

96. Responses for this question differed significantly dependent on whether respondents were primary carers for children. While 48.6% of respondents who currently had caring responsibilities for children answered that they had experienced discrimination at the Bar, this dropped to 40.9% of those who did not currently have caring responsibilities for children. There was also a significant link between ethnicity and whether respondents said that they had experienced discrimination – 42.5% of white barristers reported experiencing discrimination compared to 54.2% of BME barristers.
97. There were significant differences dependent on the respondent's year of call, with respondents of more years of call more likely to say they had experienced discrimination. The proportion of respondents who stated they had experienced discrimination at the Bar is shown by Year of Call in the table below.

	Years of Call					Overall
	0-4	5-9	10-14	15-19	20+	
Experienced discrimination	32.8%	40.2%	38.7%	43.4%	56.4%	44.9%

98. Of those who said they had experienced discrimination at the Bar, 43.8% said they experienced discrimination before the Equality Rules were introduced, 19.6% said it was after the Equality Rules were introduced, and 36.7% said it was both before and after the Rules were introduced. As with the question on harassment, responses to this question were strongly linked to the respondent's years of Call – of those who said they had experienced discrimination, 58.9% of those of 20+ years of Call said they experienced it before the Rules were introduced, whereas 92.7% of those of less than 5 years of Call said they experienced it after the Equality Rules were introduced.
99. 78.4% of those who said that they had experienced discrimination did not report the discrimination they experienced. In contrast to the question on harassment, levels of reporting were not significantly different depending on when the discrimination took place, with 20.2% of those who experienced it before the introduction of the rules reporting compared to 19.7% of those who experienced it after the Rules were introduced. There were also no statistically significant differences in reporting levels between BME and white barristers.



N=602

100. Reporting of experiences of discrimination did not differ significantly by age, seniority, or ethnicity, with similar proportions reporting and not reporting discrimination across all groups of respondents.

101. Respondents who had reported discrimination were asked about their experiences of doing so. The majority (two in three respondents) were not satisfied with the way the issue was dealt with. The most common issue raised by those who were dissatisfied was an inadequate (or non-existent) response from their head of chambers or chambers management. Other issues mentioned were a failure to take the complaint seriously, an impact on their career progression, or a negative change in attitudes toward them within the organisation. Some respondents also highlighted inadequate responses from the Bar Council or Bar Standards Board.

“The discrimination was tolerated and the head of chambers refused to change the policies to fair ones.” Self-employed Queen’s Counsel, experienced discrimination before the Rules introduced

“Absolutely nothing happened, and you are considered to be troublesome and therefore the problem is compounded” Employed barrister, experienced discrimination after the Rules introduced

“I reported it to the Bar Council and the response was that they did not want to get involved with chambers’ internal issues. I felt very unsupported.” Self-employed barrister, experienced discrimination before the Rules introduced

102. However, one in three respondents who reported discrimination were satisfied by the response taken. A number of respondents highlighted that the issue was not within chambers but an external issue, which chambers could do little to address.

“Chambers were very supportive. The Bar Council took action.” Self-employed barrister, experienced discrimination after the Rules introduced

“Chambers aren’t the issue. In my experience discrimination has come from defence and prosecution solicitors or case workers. Chambers clerks then do what they can to stop it.” Self-employed barrister, experienced discrimination before and after the Rules introduced

103. Survey respondents who had not reported discrimination were asked for their reasons for not doing so. The most common reason given for not reporting the discrimination was that it would have damaged their career and/or their practice, which was cited as a reason by over a third of respondents. Many respondents concerned about an impact on their career cited that reporting would have resulted in a negative

reputation as a “troublemaker” or as someone unable to cope with the demands of practice. One in five cited the prevailing culture and attitudes relating to discrimination (or the reporting of discrimination) as the reason that they did not report it.

“It would cause too much negative backlash and stigma for me to be seen making a fuss - that's not how 'things are done' at the Bar.” Self-employed barrister, experienced discrimination before and after Rules introduced

“It was clear that it was accepted culturally and I know that my career prospects would be devastated by reporting.” Employed barrister, experienced discrimination after the Rules introduced

“If I was to complain about the discrimination I feel it would only be my career that suffered. They would see it as proof of weakness.” Self-employed barrister, experienced discrimination before and after Rules introduced

104. One in four respondents said that they did not report their experience of discrimination as it would not achieve anything – either as the discrimination was not overt or could not have been proved, or because reporting would not have achieved anything (and could have made the situation worse).

“It's not overt- ie it's questions like 'are you the interpreter?' Or when magistrates tell you 'your English is really good'.” Self-employed barrister, experienced discrimination before and after Rules introduced

“Because it's impossible to prove it and I do not want to jeopardise my generally very good working relationships in chambers by raising the issue.” Self-employed barrister, experienced discrimination after the Rules introduced

“I did not see that it would have any impact and if anything, was likely to make my position worse given my junior status.” Self-employed barrister, experienced discrimination before the Rules introduced

105. One in ten of those who did not report discrimination answered that they did not feel it was worth reporting – either due to the fact that the discrimination was not serious enough to warrant reporting, or that they were able to deal with the issue informally without reporting it.

“There was no need to formally report it - it was dealt with on an informal basis.” Self-employed Queen's Counsel, experienced discrimination before the Rules introduced

“Because in the general scheme of things it was a trivial incident.” Self-employed barrister, experienced discrimination before the Rules introduced

106. Where respondents (both those who had and had not reported discrimination) gave details of the discrimination they had experienced¹⁷, 60% stated that the discrimination had been from someone within their chambers or organisation, with the remainder stating it was from a person external to the chambers or organisation. For cases that were connected to events within the organisation, over half stated that the discrimination related to the behaviour of their clerks and/or the allocation of work. Clients (lay and

¹⁷ Note that the survey did not specifically ask respondents to provide details relating to the nature of the discrimination they experienced. As a result, the majority of respondents did not provide details, and the findings in this paragraph should be treated with caution as they may not be representative for all respondents who experienced discrimination.

solicitor) and members of the judiciary (male and female) each made up nearly half of external instances of discrimination. Respondents that cited experiences of discrimination within their organisation were roughly twice as likely to have reported the discrimination as those who cited experiences of discrimination from outside their organisation.

“Women in my chambers are pigeon-holed into the lower paid, publicly funded ‘care’ work. They are seen by the clerks as the secondary earners in their families, even though this is often not the case.” Self-employed barrister, experienced discrimination before and after the Rules introduced

“[The discrimination] came from a well-known, female Circuit Judge.” Self-employed barrister, experienced discrimination after the Rules introduced

“A solicitor said to my clerks that he would not instruct a woman. My clerks protested. He apologised. My male colleagues refused to do the piece of work.” Self-employed barrister, experienced discrimination before the Rules introduced

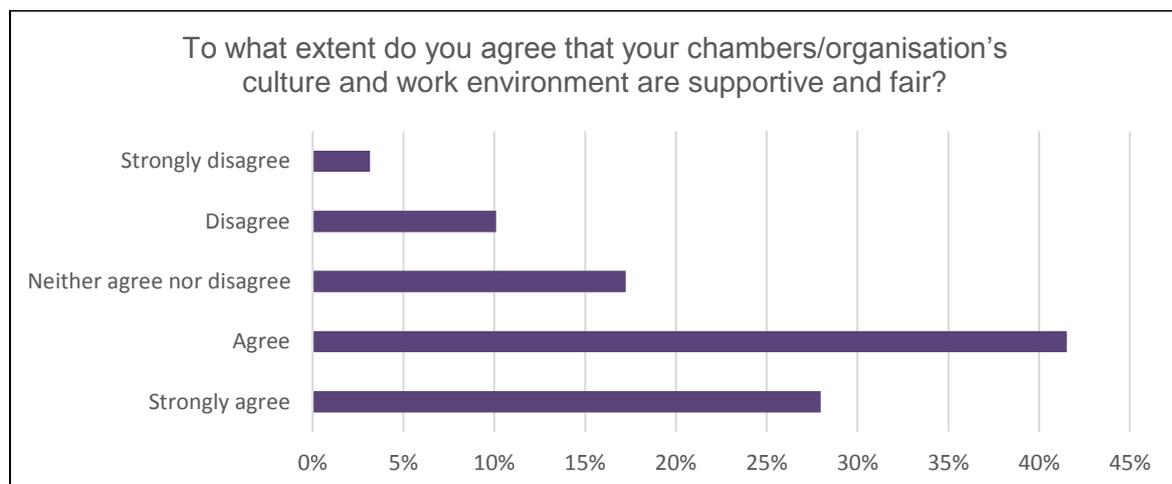
Culture and Work Environment

Key Findings – Culture & Work Environment

- 69.5% of respondents felt their organisation’s work environment was supportive and fair, and that management was supportive of gender equality.
- Mentoring schemes and seminars were the most common type of support received by respondents, followed by practice development meetings and management/committee opportunities.
- A quarter of respondents felt their organisation did little or nothing to support their progression.

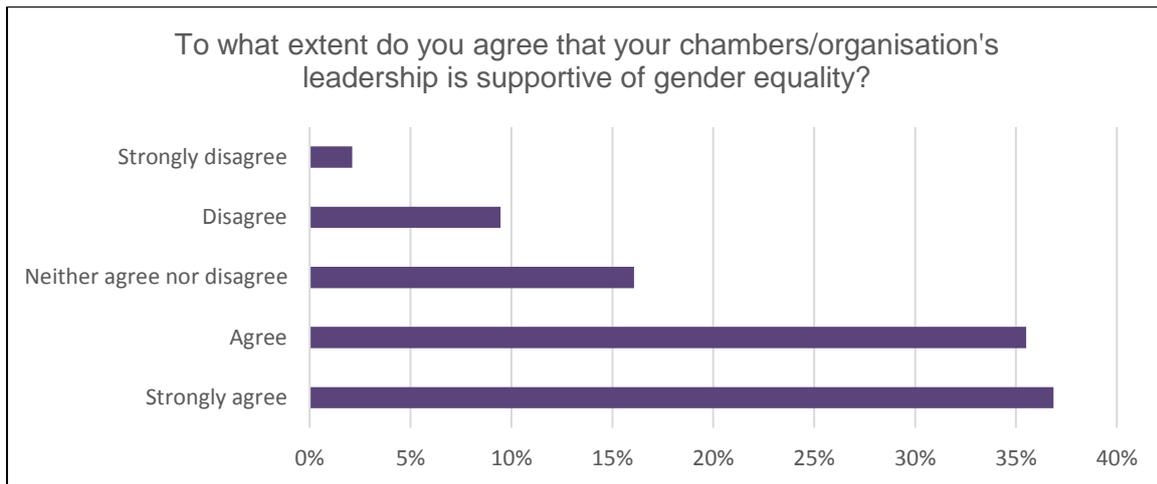
107. The BSB’s Equality Rules do not contain specific requirements to address culture or work environment, but in order to investigate the extent to which working culture and practices might be influencing retention the survey asked respondents about their culture and work environment, alongside what their organisation did to support their career development.

108. The majority of respondents felt that their organisation’s culture and work environment were supportive and fair, with 69.5% either agreeing or strongly agreeing, and 13.3% disagreeing or strongly disagreeing. Similar proportions agreed and disagreed with this question across both employed and self-employed practitioners, suggesting that practising status has little influence on whether respondents viewed their organisation as supportive and fair.



N=952

109. Similarly, the majority of respondents felt that the leadership of their organisation was supportive of gender equality, with 72.4% agreeing or strongly agreeing. In contrast to the question about culture and work environment, respondents were far more likely to “strongly agree” with the statement (36.9% compared to 28% for the previous question). A small proportion of respondents (11.6%) either disagreed or strongly disagreed that their organisation’s leadership supported gender equality. Similar proportions agreed and disagreed for this question across both the employed and the self-employed within the profession.



N=952

110. Respondents were asked what their chambers or organisation did to support their career progression. The most frequently cited policies were mentoring schemes and seminars, both mentioned by close to a third of respondents. Opportunities to get involved in management or in committees, and practice or career development meetings, were mentioned by one in six respondents. Other policies mentioned less frequently were training, informal support, meetings with clerks, flexible working opportunities (including secondments), and marketing support.

“Mentoring of members up to 7 years’ Call. Regular practice development meetings with clerk and senior clerk (plus mentor for those under 7 years’ Call). Encouragement to attend relevant marketing or other events.” Self-employed barrister

“Regular practice management meetings, seminars, management opportunities, encouragement to take pupil supervisor training and to take secondments.” Self-employed barrister

“Regular practice development meetings with each member of chambers; mentorship programmes; specific marketing meetings, activities and marketing budget for very junior tenants.” Self-employed barrister

111. However, a quarter of responses stated that their organisation did either nothing, or very little, to support their career development. In particular, a number of respondents cited mentoring schemes as a policy that would be highly useful but that was not in place in their organisation. In addition, 5% of responses raised the issue of a mismatch between theory and practice – that stated objectives or policies were given only lip service or did not truly reflect the reality within the organisation.

“There was no support whatsoever in terms of career development. When, earlier in my career, I tried to seek advice from senior members I was told that I was too tall and too pretty and that men find this intimidating.” Self-employed barrister

“I personally think there should be a mentoring system. I think chambers - the clerks - are supportive of equality and an awareness of the impact of child care obligations to a greater extent than chambers management.” Pupil barrister

“In theory my organisation has a raft of policies and opportunities, however my current management is not supportive of my career development. It is not the policies but the implementation by persons in positions of leadership.” Employed barrister

“Environment is supportive and progressive. We are a ‘left-wing’ set with strong equality values. But we are disorganised and also poor so don’t have organised schemes.” Self-employed barrister

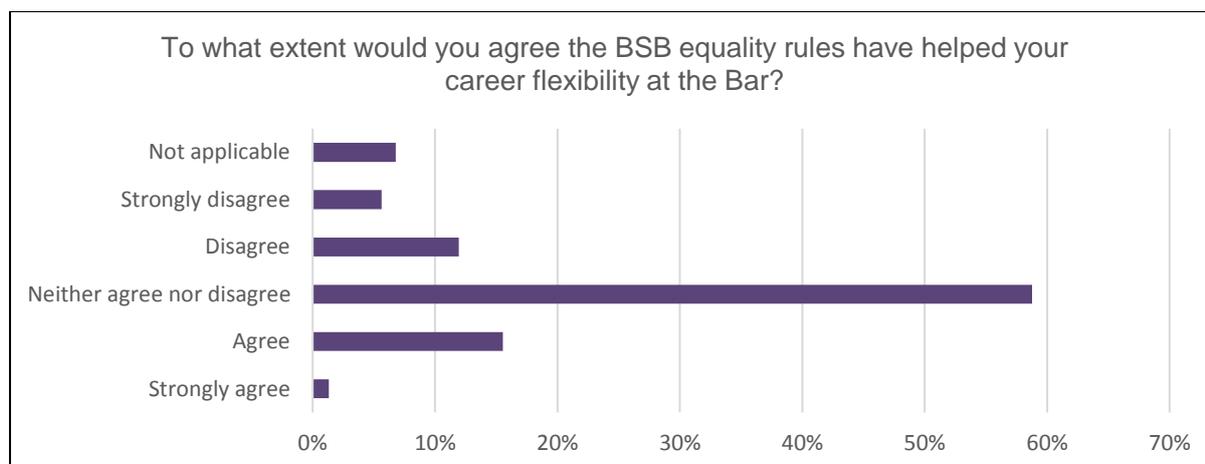
Views on the Equality Rules

Key Findings – Views of Equality Rules

- 58.8% of respondents neither agreed nor disagreed that the Equality Rules had impacted on their career flexibility.
- 57.6% neither agreed nor disagreed that the Equality Rules had impacted on their career progression or enabled them to remain at the Bar – and more respondents disagreed than agreed the Rules had helped
- Self-employed barristers were significantly more likely to be positive about the impact of the Equality Rules than employed barristers (the majority of whom are not directly affected by the rules)

112. The survey asked respondents to provide their views on the BSB’s Equality Rules, in particular to what extent they had helped their career flexibility, career progression and ability to remain at the Bar.

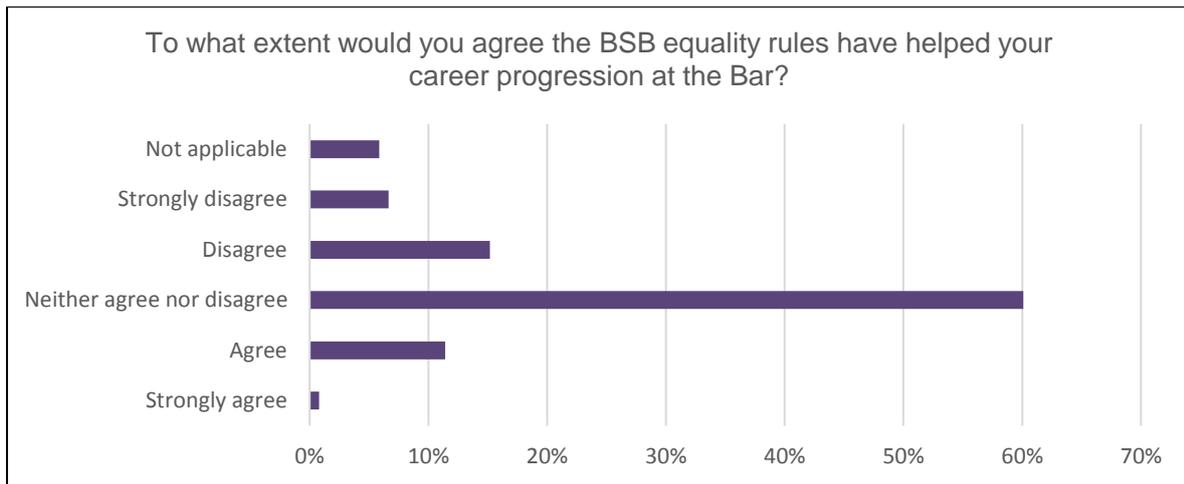
113. 58.8% of respondents neither agreed nor disagreed that the Equality Rules had helped their career flexibility. Similar proportions agreed or strongly agreed (16.9%) compared to those who disagreed or strongly disagreed (17.6%).



N=1281

114. Responses to this question varied significantly by employment status. Self-employed barristers were more likely to be positive about the impact of the Equality Rules, with 18.9% agreeing or strongly agreeing that the Equality Rules had helped their career flexibility at the Bar, and 16.6% disagreeing or strongly disagreeing. In contrast, only 4.4% of employed barristers agreed or strongly agreed that the Equality Rules had helped their career flexibility, with 21.3% disagreeing or strongly disagreeing. The majority of employed barristers are not affected by the Equality Rules (see paragraph 3). There were no significant differences in responses across ethnicity or for respondents with caring responsibilities for children.

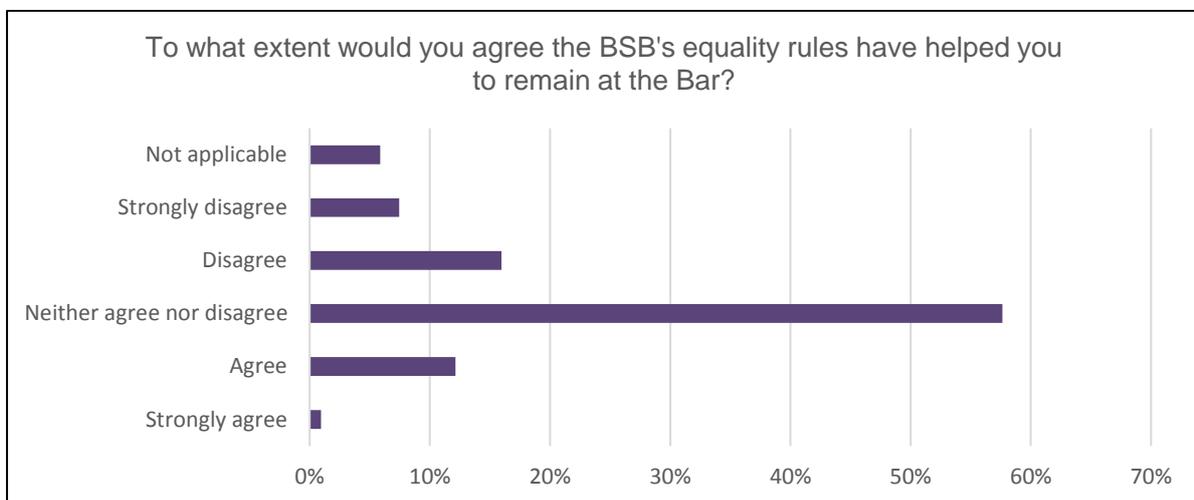
115. The majority (60.1%) of respondents were also ambivalent on the impact the Equality Rules had had on their career progression. However, more respondents disagreed or strongly disagreed (21.8%) than agreed or strongly agreed (12.2%).



N=1278

116. Responses to this question varied significantly by ethnicity and employment status. Self-employed barristers were more likely to “agree” or “strongly agree” that the Equality Rules had helped their progression at the Bar (13.6%) compared to employed barristers (4.4%). For ethnicity, BME barristers were more likely to “disagree” or “strongly disagree” that the Equality Rules had helped their progression at the Bar (31.3%) than white barristers (19.4%). In contrast, responses did not differ significantly for respondents who did or did not have caring responsibilities for children.

117. As with the question on career progression, the majority (57.6%) of respondents were ambivalent on the impact the Equality Rules had had on their career progression. More respondents disagreed or strongly disagreed that the Equality Rules had helped them to remain at the Bar (23.4%) than agreed or strongly agreed (13.1%).



N=1277

118. Responses to this question varied significantly by ethnicity, employment status, and whether respondents had caring responsibilities for children. Self-employed barristers were more likely to “agree” or “strongly agree” that the Equality Rules had helped them to remain at the Bar (14.7%) compared to employed barristers (3.8%). For ethnicity, BME barristers were more likely to “disagree” or “strongly disagree” that the Equality Rules had helped them to remain at the Bar (31.5%) compared to white barristers (21%). Barristers with current caring responsibilities for children were more likely to “agree” or “strongly agree” that the Equality Rules had helped them to remain at the Bar

(16.1%) compared to barristers without current caring responsibilities for children (10.7%).

Retention

Key Findings – Retention

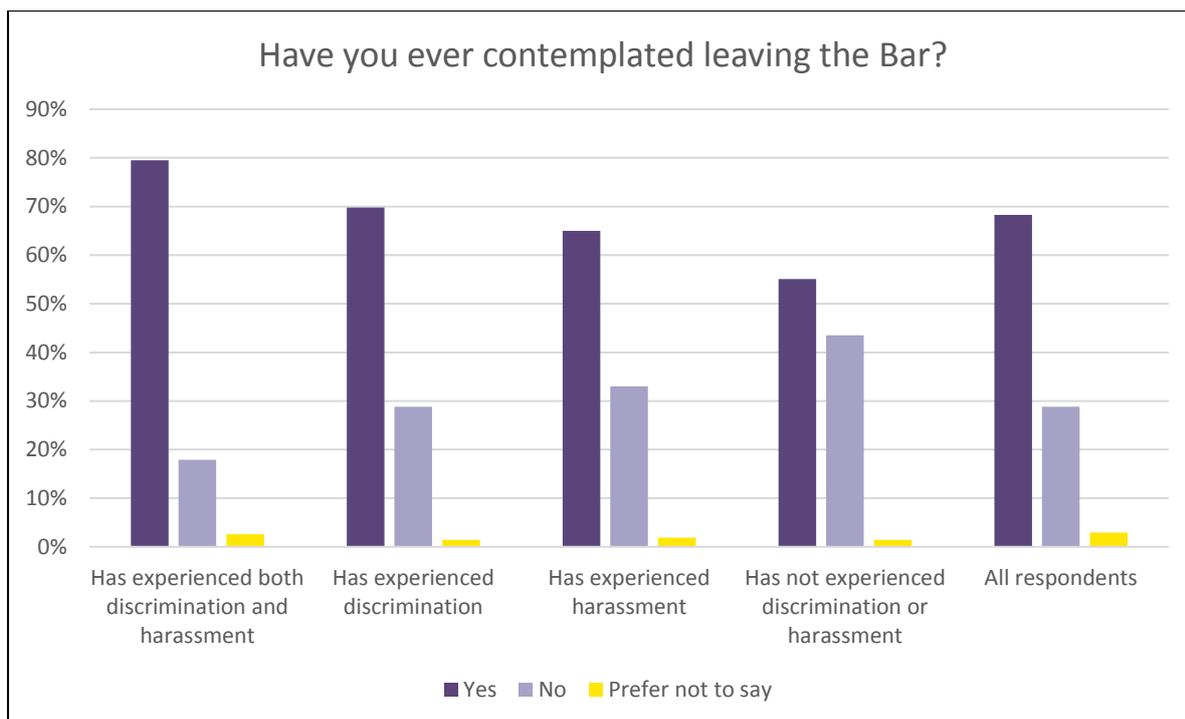
- 68.3% of respondents had considered leaving the Bar. Respondents who were BME, who had caring responsibilities for children, and who said they had experienced discrimination and/or harassment at the Bar were all more likely to have considered leaving
- The most common causes for considering leaving the Bar were for family reasons and/or the difficulty of combining a career at the Bar with caring responsibilities
- Addressing and changing elements of the culture of the Bar/legal system were cited by many respondents as key to the retention of women at the Bar
- Other suggestions included ensuring greater knowledge of and compliance with the Equality Rules, better support for childcare and flexible working, and addressing issues around clerking and work allocation

119. The survey sought to understand the perceived structural and cultural barriers to progression and retention of women at the Bar. Respondent were therefore asked whether they had contemplated leaving the Bar and what were the main factors that prompted them to consider leaving the Bar.

120. 68.3% of respondents stated that they had contemplated leaving the Bar. There were no significant differences in answers to this question between employed and self-employed barristers. However, answers to this question varied by ethnicity, with BME barristers more likely (73.4%) to say they had contemplated leaving the Bar than white barristers (66.8%).

121. Responses for this question differed significantly dependent on whether respondents were currently primary carers for children, with 72.6% of those with caring responsibilities for children answering that they had contemplated leaving the Bar, compared to 64.3% of those who did not have primary caring responsibilities for children.

122. In addition, there were significant differences in responses dependent on whether or not respondents said they had experienced discrimination or harassment while at the Bar, with 65% of respondents who had experienced harassment, 69.8% of those who had experienced discrimination, and 79.5% of those who had experienced both discrimination and harassment stating they had contemplated leaving the Bar. In comparison, 55.5% of those who said they had not experienced either discrimination or harassment stated that they had contemplated leaving the Bar.



N=1333

123. Respondents who had considered leaving the Bar were asked what the main contributory factors were. The most common reason given was family reasons, with the vast majority of respondents who gave family reasons as a factor citing the difficulty of combining a career at the Bar with caring responsibilities for children.

“The judges expect us to sacrifice our family lives to prepare cases passing judgment on other families for neglecting their children.” Self-employed barrister

“The nature of the criminal Bar makes it at times impossible to balance the requirements and needs of both my work and childcare responsibilities.” Pupil barrister

“I did not see how I could manage my responsibilities as a tenant and as a mother at the same time.” Employed barrister

124. The demands of the profession and the resultant stress were the next most common reasons given, with almost one in four respondents giving these as reasons they had considered leaving the Bar. The unpredictability (in the levels of work, timetabling, and hours) inherent in the profession, the lack of work/life balance, and the anti-social hours were all cited by close to one in seven respondents.

“The nature of working at the criminal Bar. The work is unpredictable, the hours often long and antisocial at times. The types of cases can be very stressful and upsetting.”
Self-employed barrister

“Last minute preparation of complex case is exhausting and can become overwhelming at times when the diary is very busy.” Self-employed barrister

“The lack of work/life balance and the need to work at extreme levels in order to earn a decent living.” Dual Capacity barrister

“Chronic overwork, excessive stress (to the point of impact on my health).” Self-employed barrister

125. Income was also cited by nearly one in four respondents. Issues around fixed chambers expenses, and the unreliability of income (both income levels and delays in payment) were highlighted by a number of respondents. This was often linked to issues around government policy, in particular around legal aid cuts and income levels for legal aid funded areas of practice. Issues around government policy were cited by one in twelve respondents as factors contributing to them considering leaving the profession.

“Unpredictability in terms of income - especially when you have a large aged debt which is not chased as you are not considered to be senior enough to warrant your fees being chased.” Self-employed barrister

“Disillusioned by savage cuts in income and impossible delays in payment (what other profession has to pay income tax on earnings from legal aid sometimes 2 years before they receive payment?).” Self-employed Queen’s Counsel

“Times of ‘austerity’ and government-led erosion of our profession and legal system which make it so hard to earn a decent living at the modern common law Bar.” Self-employed barrister

126. Discrimination was cited by more than one in ten respondents as a reason they had considered leaving the profession. Harassment was also cited by a number of respondents, but substantially lower numbers of respondents cited harassment than cited discrimination as a factor in considering leaving the profession.

“Discrimination by the profession against women, especially those with caring responsibilities.” Employed barrister

“There is still a perception that male barristers are better. Established stereotypes are hard to break.” Self-employed barrister

127. A small number of respondents cited moving to the employed Bar as the response they had taken in order to address the issues they faced and continue in the profession.

“I thought self-employed practice was the only avenue open to me and I couldn’t balance that with three small children. In fact, coming into employed practice has given me career progression that I would never have experienced in chambers.” Employed barrister

128. Respondents were asked if there was anything beyond the current Equality Rules that could be done to help with the retention of women at the Bar. One in four responses stated that there was nothing more that could be done, or that the respondent did not know what more could be done. However, the remaining responses did provide suggestions where things could be improved or highlighted key issues they felt needed to be addressed.

129. The most common response given was that a cultural change was required to address attitudes at the Bar, within the legal system more generally, or within society as a whole that posed problems for the retention of women. Issues raised included sexism and discrimination, attitudes towards flexible working and working late hours, a lack of understanding of caring or family commitments, and the expectation that women are the primary caregivers for children.

“Cultural change across the sector is occurring, but some barristers, clerks and firms are slow to catch up. That cannot be addressed by rules alone.” Self-employed barrister

“There is still an 'old boys club' attitude amongst a not insignificant number of barristers and the circuit judiciary.” Employed barrister

“Rules are helpful but do not address subtle forms of stereotyping and discrimination that affect us all. In the solicitors' profession the largest firms are starting to address this through training on unconscious bias.” Self-employed barrister

“Would need culture change across criminal justice system re the expectation to stay at work beyond usual hours.” Self-employed barrister

“It would help if the Bar Council actually addressed the environment at the Bar instead of pretending that it's all about babies. The sexism is aggressive and overwhelming. Female pupils are still being told what to wear and judged on appearance.” Self-employed barrister

130. One in seven responses highlighted the implementation of the rules themselves as an issue – mentioned were the need for ensuring greater awareness or compliance, alongside the fact that the rules are seen as a “tick-box” exercise in many cases.

“I think that whilst rules are there, in practice they are very difficult to enforce.” Self-employed barrister

“I feel there is lack of compliance and lip service paid to the current rules.” Self-employed barrister

131. One in ten responses highlighted the need for greater support for women with childcare responsibilities. Suggestions included additional supported childcare provision (including beyond London), financial assistance for childcare (particularly tax breaks or deductions for childcare costs), and additional rules to address working hours where they clash with childcare commitments. More being done to support flexible working practices was also mentioned by one in twelve responses.

“Child care facilities would be of great assistance - I know there are limited facilities now but they are insufficient.” Self-employed barrister

“There is a great deal of support available in London, both practical (crèche facilities etc) and emotional (eg Middle Temple strive and survive course), nothing in the provinces and no impetus to create the same either.” Self-employed barrister

“BSB should lobby for tax breaks for childcare costs.” Self-employed barrister

“It needs to be much easier for individuals to choose to work part time without disproportionate adverse effects on their career progression and disproportionate financial penalties.” Employed barrister

132. One in ten responses mentioned issues surrounding clerking, in particular work allocation. A similar proportion mentioned the need to address courtroom practices, in particular the unpredictability of listings and hours and discrimination by the judiciary.

“I would like clerks to be monitored. It is a telling situation in my opinion that the number of senior female clerks is virtually non-existent.” Self-employed barrister

“More extensive training of clerks and monitoring of the allocation of work and, in particular, the selection of junior barristers for led work.” Employed barrister

“More flexibility in court timings for women with childcare issues. Flexible working does not apply to court.” Dual Capacity barrister

“The Courts and listing powers that be need to fully understand that if women are going to be retained and progress, they need to be able to work part time. And, as a consequence, listings needs to develop a flexible policy. Obviously, warned trials are a joke in this regard.” Self-employed barrister

133. Other issues raised in a number of responses included more mentoring schemes available for female barristers, more flexibility relating to financial contributions required or training requirements (both from chambers and the Bar Standards Board), and improving diversity in the profession as a whole.

“I feel that what we really need are strong female mentors and role-models - people that advocate for equality of opportunity and people that can also offer individual support and mentoring.” Self-employed barrister

“Greater allowances re practising certificate fees and insurance costs and on what basis/for what period they are calculated.” Self-employed barrister

“A move away from seeing white, male public school learning and its culture of aggression as the default (and the epitome) of advocacy to a more heterogeneous culture.” Self-employed barrister

Summary and Conclusions

Summary of Findings

134. This analysis aims to improve the Bar Standards Board's knowledge of the implementation of the Equality Rules and explore issues which may be contributing towards a lack of retention of female barristers. While many of the issues highlighted may also apply to male barristers, the focus of the research was on the experiences of female barristers as the retention of women at the Bar (particularly the lack of representation of women at the more senior levels) has long been seen as an issue.
135. When interpreting the findings of this research, it is important to bear in mind any limitations of the research methodology. An online survey approach means that the sample who respond are self-selecting, and thus may differ from the population as a whole. As a result, the extent to which the findings are fully representative of the whole female Bar cannot accurately be determined, and findings should be viewed with an element of caution. Nonetheless, the response rate to the survey was high (close to one in four of the practising female Bar responded) and the profile of respondents is representative of the overall population on most key indicators. This goes some way to addressing concerns that the findings may be unrepresentative of the female Bar as a whole.
136. Although the Equality Rules stipulate that chambers should monitor and review the allocation of unassigned work, this research suggests awareness of **work allocation** is low. While respondents gave many examples of good practice, many were not aware of how work was monitored (or what actions were taken if issues were identified) and in many cases there appears to be a cultural barrier towards querying work allocation. When respondents have queried work allocation, many were satisfied with the response but others were not, with a lack of transparency the most common issue cited.
137. The Equality Rules state that chambers should have a **flexible working** policy in place. Awareness of flexible working policies appears substantially better among respondents than surrounding the monitoring of work allocation, particularly among those who could be expected to be more likely to require formal flexible working arrangements (such as more senior barristers or barristers with caring responsibilities). In addition, awareness of flexible working policies was far higher among employed barristers. Encouragingly, policies were generally rated highly by those aware of them.
138. Experiences of flexible working appear to be mixed. For many flexible working works well (either via a formal flexible working application, or for many barristers in chambers through taking advantage of the inherent flexibility of self-employed practice). However, many raised issues that lead to a negative impact on their practice or prevented them from flexible working in the first place. Flexible working clearly enables many female barristers to remain at the Bar. However, for many it negatively impacts on the work they receive or their career progression, and negative attitudes towards flexible working can contribute to the problems they experience. Concerns around income prevent many self-employed barristers from taking full advantage of flexible working. In addition, for many there are problems combining flexible working with the unpredictability of courtroom practice or the career more generally, where expectations around last-minute availability or work outside standard "office hours" is the norm in many areas of practice.
139. The Equality Rules require chambers to undertake **fair recruitment** training and ensure that recruitment is fair and objective. Satisfaction with the objectivity of recruitment is generally high, and responses suggest that a large majority of chambers have implemented fair recruitment training – indeed, awareness of fair recruitment

training and satisfaction with the objectivity of recruitment is considerably higher among the self-employed Bar than among employed barristers.

140. The Equality Rules require chambers to have both an **equality and a harassment policy** in place. Awareness of equality policies is very high (higher than awareness of any other policy required by the Equality Rules) and the policies themselves are rated highly. For harassment policies, while the policies themselves are generally rated positively, awareness of whether a policy is in place is substantially lower.
141. **Maternity/parental leave** policies that put in place a 6 month rent-free period are another requirement of the Equality Rules, whereas for employed barristers paid maternity/parental leave policies are a legal requirement. Awareness of maternity/parental leave policies was high, with little evidence of widespread non-compliance, and policies were generally rated positively. Responses were also generally positive about the levels of support from their organisation when taking maternity/parental leave, with those who had taken maternity/parental leave after the introduction of the Equality Rules more likely to be positive about the support they received.
142. However, open responses revealed a number of issues surrounding maternity/parental leave. Many felt taking maternity/parental leave had negatively impacted their practice, with impacts on work allocation, progression and income highlighted. A number of barristers had deliberately taken short periods of maternity/parental leave in order to minimise any negative effects on their practice. Many self-employed barristers in particular felt that their chambers could have done more to support them, particularly on their return to work – negative attitudes towards those taking or returning from maternity/parental leave in some organisations were noted. In addition, many highlighted the difficulties on return as the key issue, in particular combining courtroom practice with its lack of flexibility and unpredictable hours with caring responsibilities.
143. The high numbers of female barristers stating they had experienced **harassment** (two in every five respondents) is a source of concern, particularly given the low levels of reporting. While this research suggests that levels of harassment at the Bar have declined the levels that existed over 15 years ago, there is little to indicate any significant improvement over the last 15 years. In particular, responses suggest that barristers at an early stage of their career – in particular pupils – may be particularly vulnerable.
144. Concern about the impact on their career was the most common reason for not reporting harassment, with prevailing attitudes at the Bar towards harassment and the reporting of harassment also common reasons given for not reporting. The research suggests that the Equality Rules may have contributed to an increase in reporting of harassment (with higher levels of reporting among those who had experienced harassment after the Rules were introduced) although the effect remains relatively small. Given the low proportion reporting, the fact that half of those who do report are not satisfied with the response is a source of concern. Answers from those who had reported harassment suggest that concerns (from those who do not report) are at least in part justified, as a failure to take the report seriously, an inadequate response to the complaint, and an impact on their career were all cited as reasons respondents were not satisfied with the outcome of reporting.
145. As with harassment, a high proportion of respondents stated they had experienced **discrimination**, combined with similarly low levels of reporting. Again, this represents a source of considerable concern in an area that the introduction of the Equality Rules

following the 2010 Equality Act was intended to address. Responses suggest that discrimination within a barrister's chambers or organisation is more common than discrimination from external individuals (such as judges or clients) and that discrimination within an organisation is often felt to be from the behaviour of the clerks and issues around work allocation.

146. As with the reporting of harassment, concern about an impact on their career and prevailing attitudes within the legal profession were also the most common reasons for not reporting discrimination. Among those who had reported discrimination, the majority were not satisfied with the response, with similar issues raised to those mentioned in relation to reporting of harassment (in particular failure to take the report seriously, and an impact on their career) suggesting that the concerns which prevent people reporting discrimination are at least in part realistic.
147. The majority of respondents were neutral about the impact of the **Equality Rules**. Certain findings within this research suggests that the Rules may be having an impact in some areas (such as maternity/parental leave and the reporting of harassment – see paragraphs 57-8 and 86), and that some barristers feel the Equality Rules have had an impact in improving their career flexibility, progression, or their retention at the Bar. However, this survey suggests that the majority of female barristers do not feel the Rules themselves have as yet had a significant impact in terms of supporting their career. However, respondents were more positive about the range of policies which the Rules require chambers to implement.
148. A large majority of survey respondents had contemplated **leaving the Bar**. While this may not be an issue restricted to the female Bar (many of the issues that prompt people to consider leaving are likely to impact similarly on male barristers) the lower levels of retention of female barristers compared to their male counterparts suggests this is a particular issue for women. The findings of this research support this view – respondents were more likely to consider leaving the Bar if they said they had experienced discrimination or harassment, or if they had primary caring responsibilities for children.
149. Family reasons or the difficulties of combining a career at the Bar with caring responsibilities were the most common reasons given for considering leaving the Bar. Attitudes within the legal professions were highlighted as a key issue to address in order to improve retention of women, alongside ensuring greater compliance and awareness of the equality rules, and providing more support, in particular around childcare responsibilities and flexible working.

Conclusions

150. This research provides the BSB with additional evidence with which to consider the effects of the Equality Rules and the extent to which they have had a significant impact on the experiences of women barristers. There is little evidence of widespread non-compliance with the requirement to have policies in place, and policies are generally rated positively. However, awareness of some policies is low, and the findings suggest that in many cases the implementation of the policies falls short of what might be expected. The findings also suggest that in some areas the existence of formal policies does not fully address the structural or attitudinal barriers faced by women barristers.
151. This research does highlight some encouraging findings and examples of good practice. The findings suggest that the introduction of the Equality Rules has led to some improvements (such as around maternity/parental leave, and an increase in reporting of harassment) and other improvements may have been driven by changing

attitudes (such as a drop in experience of harassment compared to historical levels). There is also evidence of good practice in a number of areas - supportive management and clerks within chambers, good levels of support for flexible working, and excellent maternity/parental leave policies that fully assisted a return to practice, were among the examples of good practice highlighted by respondents. These findings suggest that many organisations are successfully implementing policies that are proving effective at supporting the retention of women barristers.

152. However, there remain definite areas of concern that suggest female barristers are still facing disproportionate barriers within the profession compared to their male counterparts. For many respondents elements of the culture of the Bar and legal profession more generally are seen as a barrier to the retention of women. Work allocation, attitudes towards discrimination and harassment, the difficulties faced by women returning from maternity/parental leave and making use of flexible working are all key issues of concern. Driving improvements in these areas should help to address some of the key issues that women face within the profession and contribute to improved rates of retention.

Annex A: Survey Questions

Note that this survey included survey routing – the questions respondents were asked were determined by their answers to previous questions, to ensure that respondents automatically skip questions that are not relevant to their particular circumstances. As a result, not all respondents answered all questions.

What is your level of seniority?

Pupil/Junior barrister/Queen's Counsel

What was your year of call?

[Open Question]

What is your current status?

Self-employed barrister in Chambers/Sole Practitioner/Employed barrister/Dual Capacity barrister/Registered European Lawyer/Unregistered barrister/Prefer not to say/Other (please specify)

Does your chambers monitor the allocation of unassigned work?

Yes/No/Don't know

What are your experiences of work allocation monitoring?

[Open Question]

Have you questioned or queried the work that has been allocated to you or the process by which it was allocated to you?

Yes/No/Don't know

What was the result of questioning the work you have been allocated or the process in which it was allocated to you?

[Open Question]

Does your current chambers/organisation have a flexible working policy?

Yes/No/Don't know

How would you rate your current flexible working policy?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know

Have you ever requested to work flexibly?

Yes/No

Did you apply for flexible working before or after the equality rules were introduced in 2012?

Before the rules were introduced/After the rules were introduced/Both before and after the rules were introduced

What was the outcome of your flexible working application(s)?

[Open Question]

To what extent would you agree that flexible working has helped:

[Open Question]

You to remain at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

Your progression at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

What reasons have prompted you to work flexibly? Please tick all that apply:

Sabbatical leave/Caring responsibilities for your children/Caring responsibilities for others e.g. family members/Secondment/Other (please specify)

What impact has working flexibly had on your practice?

[Open Question]

For what reasons (if any) might you like to work flexibly? Please tick all that apply

Sabbatical leave/Caring responsibilities for your children/Caring responsibilities for others e.g. family members/Secondment/Other (please specify)

Is there anything that has prevented you from flexible working?

[Open Question]

What is your experience of your chambers/organisation's recruitment practices (other than your initial appointment)?

Led an interview panel/Sat on an interview panel/Involved in recruitment decision/Involved in shortlisting candidates/Other (please specify)

To what extent do you agree that your chambers/organisation's recruitment criteria are fair and objective?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

Do your chambers'/organisation's interview panel members undertake fair recruitment training?

Yes/No/Don't know

What type of fair recruitment training do your chambers'/organisation's interview/selection panels take?

Private study training/Online training/Classroom style training/Other (please specify)

Does your current chambers/organisation have an equality policy?

Yes/No/Don't know

How would you rate your current chambers'/organisation's equality policy?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know

Did your chambers/organisation consult with members and/or staff over their equality and diversity policies?

Yes/No/Don't know

What level of consultation did you have in your chambers for equality and diversity policies?

[Open Question]

Does your current chambers/organisation's equality policy address discrimination?

Yes/No/Don't know

Discrimination:

- A person directly discriminates against another if because of a protected characteristic s/he treats that person less favourably than s/he treats or would treat others.

*- Indirect discrimination occurs where an apparently neutral provision, criterion or practice has, or would have, a disadvantageous impact upon a particular group compared with others.
(Section 13 and 19 of the Equality Act 2010)*

Does the policy encourage people to report discrimination?

Yes/No/Don't Know

Does your current chambers/organisation have a harassment policy?

Yes/No/Don't Know

Harassment:

- Any form of unwanted conduct in relation to a relevant protected characteristic which has the effect or purpose of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment (Section 26 of the Equality Act 2010).

How would you rate your current chambers'/organisation's harassment policy?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know

Does the policy encourage people to report harassment?

Yes/No/Don't Know

To what extent do you agree that your chambers'/organisation's culture and work environment are supportive and fair?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know

To what extent do you agree that your chambers'/organisation's leadership is supportive of gender equality?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know

How does your chambers/organisation support your career development? (For example: mentoring system, seminars, management opportunities)

[Open Question]

Have you ever had experience of harassment at the Bar?

Yes/No/Don't know/Prefer not to say

Did you experience harassment before or after the equality rules were introduced in 2012?

Before the rules were introduced/After the rules were introduced/I have experienced harassment both before and after the rules were introduced

Did you report the harassment you experienced?

Yes/No/Prefer not to say

Why did you decide not to report the harassment you experienced?

[Open Question]

What was your experience of reporting harassment in your chambers/organisation or at the Bar? [Open Question]

Have you ever had experience of discrimination at the Bar?

Yes/No/Don't know/Prefer not to say

Did you experience discrimination before or after the equality rules were introduced in 2012?

Before the rules were introduced/After the rules were introduced/I have experienced discrimination both before and after the rules were introduced

Did you report the discrimination you experienced?

Yes/No/Prefer not to say

Why did you decide not to report the discrimination you experienced?

[Open Question]

What was your experience of reporting discrimination in your chambers/organisation or at the Bar?

[Open Question]

Does your current chambers/organisation have a maternity/parental leave policy?

Yes/No/Don't know

How would you rate your current maternity/parental leave policy?

Very poor/Poor/Satisfactory/Good/Excellent/Don't know/Not applicable

How many times have you taken maternity/parental leave while at the Bar?

Never/Once/More than once

Did you apply for maternity/parental leave before or after the equality rules were introduced in 2012?

Before the rules were introduced/After the rules were introduced/Both before and after the rules were introduced

Please answer the following questions with reference to the most recent occasion you have taken maternity/parental leave. If the answers to these questions would differ substantially for previous occasions when you have taken maternity/parental leave, please provide details in the 'other comments' question.

How would you rate the level of support from your organisation/chambers over the course of your maternity/parental leave?

Before taking maternity/parental leave?

Very poor/Poor/Satisfactory/Good/Excellent

During maternity/parental leave?

Very poor/Poor/Satisfactory/Good/Excellent

After returning from maternity/parental leave?

Very poor/Poor/Satisfactory/Good/Excellent

Do you think taking maternity/parental leave impacted your progression or practice at the Bar?

[Open Question]

To what extent do you agree that taking maternity/parental leave has enabled you to stay at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

Are there any experiences you would like to share about taking maternity/parental leave?

[Open Question]

Have you ever taken time away from practice to have children (outside of any official maternity/parental leave policies)?

Yes/No

Do you think taking time away from the profession to have children impacted your progression or practice at the Bar?

[Open Question]

Have you ever contemplated leaving the Bar?

Yes/No/Prefer not to say

What were the main factors that prompted you to consider leaving the Bar?

[Open Question]

To what extent do you agree the BSB equality and diversity rules have helped:

Your career flexibility at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

Your career progression at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

You to remain at the Bar?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

Are there factors, not covered by the BSB Equality Rules that could support women's progression and retention at the Bar?

[Open Question]

Are there any other issues you have experienced as a women at the Bar that have not already been mentioned in this survey?

[Open Question]

The survey also included the Bar Standards Board's standard Equality and Diversity monitoring questions – available at:

https://www.barstandardsboard.org.uk/media/1705800/equality_and_diversity_monitoring_form.docx