'Nobody stood up for me': young lawyers say harassment rife in Australian legal profession

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Allegations abound of touching, inappropriate comments and senior figures banned from one-on-one meetings

A senior lawyer at a top-tier firm has such a history of harassment that a supervisor must sit next to him at every social event, and he is banned from one-on-one meetings, according to young lawyers in the industry.

Another former legal partner, who has now been appointed a senior counsel, harassed and kissed a junior clerk when she was 24.

The new allegations of sexual harassment in the legal profession follow the high court’s announcement on Monday that an independent inquiry found former justice Dyson Heydon sexually harassed at least six associates during a decade at the high court. Heydon denies the allegations.
Two other high court judges - justice Michael McHugh and then chief justice Murray Gleeson - were reportedly told of Heydon’s alleged harassment, according to the investigation. McHugh’s office told the Guardian he was unavailable for comment. Gleeson could not be contacted, but was quoted by the Sydney Morning Herald and Age as saying he was “unwilling to comment”.

Lawyers and former lawyers interviewed by Guardian Australia have shared allegations of sexual harassment being rife across the legal industry - from firms to the courts.

“It happens at every level,” one lawyer said. “It’s not just the judiciary, it’s through the industry.”

Guardian Australia has heard allegations that one lawyer at a large firm has such a history of harassment complaints that he has been banned from holding meetings alone with junior female staff.

The lawyer is “quite senior” and “knocking on the door of partnership”, an employee, who spoke on the condition of anonymity, said.

“Everyone in the team knows that he is a bit creepy and makes inappropriate comments to paralegals, clerks, graduates all the time. And there have been a lot of complaints made about him.

“But because he is considered to be one of the most respected minds in that area of law, they don’t want to lose him to someone else. Sometimes they have put in measures in social settings. He wasn’t allowed to meet in quiet rooms alone with very junior women.”

However, the man remains employed in a senior role.

“They don’t want to lose him to another firm,” an employee said. “The senior partners are worried he will take their clients with him.”

On Tuesday, the New South Wales supreme court, where Heydon was a judge from 2000 to 2003, announced it would create a sexual harassment policy for the staff of judges.

The court employs 118 judges’ associates and tipstaves and prior to the findings against Heydon, neither it nor the high court had a sexual harassment policy specifically for associates and the personal staff of judges.

On Thursday, the Sydney Morning Herald reported that a group of 14 senior female barristers lodged a complaint against Heydon with the NSW legal professional watchdog, the Office of the Legal Services Commissioner. The watchdog can disbar lawyers and take other disciplinary action.

Another former lawyer alleged that she was harassed by a partner at her firm who later became a barrister and senior counsel. She was 24, and working as an articled clerk when the partner invited her to work from his home.
“I thought his family would be there but his wife was away,” she said. “We had a few drinks and did some work. Then he said he was too drunk to drive me home and I should stay. He made a move on me that night and I felt extremely uncomfortable.

“I couldn’t afford a taxi home and also didn’t want to offend him. I ended up kissing him for a bit but then saying I didn’t want to sleep with him. I stayed in the guest bedroom but was freaked out and confused.”

That partner then recommended that she not be kept on as a clerk.

“Was he saying I was not a good lawyer because I genuinely wasn’t - or was it because he didn’t want me around because of the weird stuff that happened at his house? I’ll never know,” she said. “I went to another firm but felt really crushed about my experience at that first firm. He remains in the law. I don’t.”

Another lawyer alleged she was paralegulling at a small firm when she was harassed, and senior partners told her she “shouldn’t worry about it”.

“He was quite older, towards the end of his career. It seemed to be one of those things where his behaviour was problematic but everyone in the firm seemed to accept it,” she said. “They were just saying ‘That’s the way he is, he will be gone soon.’

“I had him constantly touching me on the waist, touching me on the hand. Physical contact that was unnecessary. Constantly making comments in his office about how beautiful Asian women are ... I was only 19 or 20, it was my first legal job ever.”

She escalated the incident to the office manager, who then escalated it to partners. But she said the structure of law firms meant that sexual harassment policies and HR roles were of limited use.

“The way the [partners] approached me was to tell me I shouldn’t worry about it because he will be gone soon.

“It made me feel like I was a nuisance, and bringing up something they did not want to deal with. It was very demoralising and made me feel ashamed about it. I thought maybe it was a personality thing. Maybe I’m not cut out for this industry. Maybe I don’t have the backbone to deal with this sort of stuff.

“My experience is that HR people and office managers are toothless tigers in that setting. They may know what needs to be done, but they don’t have the authority to do anything. This might be a thing unique to the legal profession: the firms, because they are partnerships, the head of HR will still defer to the partners. Often it’s that closed circle that the partners don’t want to mess with each other.”

Another lawyer, who worked as a research assistant in a barrister’s chambers, alleged that a barrister questioned her repeatedly about her sex life at the chambers. She was 22 at the time and still studying.
“There were other people around, and nobody said anything, nobody stood up for me,” she said. “Another barrister saw and heard it, but didn’t say anything, and didn’t talk to me about it later.”

She said the structure of a barristers’ chambers also made reporting sexual harassment extremely difficult. Unlike partners in firms, barristers are self-employed and only rent office space from the chambers. Their staff are also usually employed directly by them.

“I didn’t know where to go,” the lawyer said. “Barristers are self-employed. It’s very unlikely they could be fired by the chambers. Even if I reported it, he would still be there. So what’s the point? It would be a more toxic environment if I said something.”

She said that harassment complaints could be reported to a clerk, or to the board of the chambers – but that offending barristers were often on the board itself.

“The clerk who is in charge of managing the floor does serve as an HR person. But there is a conflict of interest. The clerk is basically paid by the barristers, their fees pay them.” You don’t want a senior counsel to leave, because it’s a prestigious title for the chambers. The more SCs at the chambers, the better.

“Barristers are so well-connected. If I applied for a job at that chambers, or another chambers, I would always have that reputation of someone who goes and snitches on barristers. The legal world is so small … They would blacklist you.”

She said she was not surprised when the allegations against Heydon were revealed on Monday.

“People were really shocked,” she said. “Well I wasn’t. Guys can get away with a lot”.

Heydon has denied the claims via his lawyers, Speed and Stracey, who issued a statement.

“In respect of the confidential inquiry and its subsequent confidential report, any allegation of predatory behaviour or breaches of the law is categorically denied by our client,” it said.

“Our client says that if any conduct of his has caused offence, that result was inadvertent and unintended, and he apologises for any offence caused.

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