Barrister Judith Fordham tells of assault by ex-judge as WA lawyers report sexual harassment

By Eliza Borrello
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Prominent West Australian criminal barrister Judith Fordham has revealed a retired judge indecently assaulted her, while in a separate matter, another former member of the judiciary sexually harassed and stalked her.

Ms Fordham said the indecent assault happened in the back of a taxi after a social event.

"It was a matter of, 'OK who's going this way, shortage of taxis, alright, let's share a taxi,' and I was seated in the back with him," she told ABC Radio Perth.

"Before I knew it his hand was up my dress and groping me as far as he could get."

Ms Fordham said the second former judge pursued her over a period of time.

Key points:

- A survey found 42 per cent of WA lawyers have been sexually harassed
- Judith Fordham says a judge indecently assaulted her in a taxi
- The Women Lawyers of WA group calls the level of harassment 'disturbing'
"It wasn't a drunken thing. He wanted to meet me, he wanted to see me in various venues, he found out where I lived, he came to my home," she said.

"He told me about his marriage problems and said that he would like to see me without my clothes and his wife didn't understand him, it was pretty classic.

"He'd ring me at work, to the extent that I had to change my phone number."

'He made a point of paying me out in court'

The incidents happened a number of years ago, but until now Ms Fordham has only confided in a small number of friends about what happened.

She decided to tell her story in light of the High Court's recent revelation an independent investigation it commissioned found six former associates were sexually harassed by former Justice Dyson Heydon, claims he has categorically denied.

Ms Fordham has not named the former judges and there is no suggestion she is accusing Mr Heydon of offending against her.

She said the judge who stalked her punished her in court for rejecting his advances.
"[He] made a point of paying out on me in court whenever I appeared before him," she said.

"Such that if I knew we were appearing before him, I knew I had to give my client to somebody else because I knew the client wouldn't get a fair go.

"That was somebody who, just as Mr Heydon was, was sitting in judgement of others and very often on sexual offending."

**More than one in three lawyers harassed, survey finds**

In February 2019 the group Women Lawyers of Western Australia (WLWA) surveyed 509 WA lawyers about sexual harassment.

Almost 85 per cent of the respondents were female.

A total of 204, or 41.72 per cent, of the participants said they had experienced sexual harassment in the workplace.
The survey found "lewd or suggestive comments" was the most common type of sexual harassment experienced.

Other types of harassment included unwelcome physical touching (94 respondents), sexual advances (85) and invasive questioning about the respondents' "private life or body" (80).

Out of the 509 respondents, 82 identified the partner of a law firm as their harasser, making partners the most commonly cited offenders.

Almost 95 per cent of respondents said their harasser was male.

**Broad cross-section captured**

The majority of respondents who experienced sexual harassment, 85.64 per cent, did not address the harassment with their harasser.

Just 7.73 per cent (15 people) made a formal complaint.

More than one in three respondents said they had witnessed sexual harassment in the workplace, but just eight per cent of them made a formal complaint.

With 509 respondents, WLWA president Clare Thompson said the survey had captured the views of a significant cross-section of WA's legal profession, including paralegals and support staff.
"Because those people are also quite vulnerable to this behaviour," she said.

Overall Ms Thompson said the level of harassment reported was "surprising".

"I had always taken the view that this was a problem we had, but the sheer volume of people who responded that they had been harassed was quite disturbing," she said.

Ms Thompson said she was aware of anecdotes of poor behaviour by colleagues, including a case of someone watching pornography at work.

"There are certainly pockets of the legal profession that are very much like Neanderthal man," she said.

"I have seen things like really inappropriate text messages being sent from senior people to junior people about them looking hot.

"Worse than that, I heard a story about a young woman who was sent a text message by her senior male employer to the effect that he was sexually aroused by her walking past his office."

**There is now 'capacity to be believed'**

Ms Thompson urged anyone who witnessed harassment to call it out.

"I think that the Western Australian profession has been very ably led by some very senior people who are extremely committed to making change," she said.
"And I do think that change is happening, it's just not fast enough."

Ms Fordham said she did not blame women for not confronting their harassers but believed attitudes to harassment within her profession had improved.

"There are now things they can do, there is capacity to be believed," she said.

"And you know, some of these dinosaurs that still think it's OK to do this sort of thing just might pause and think twice."

courts to review harassment policies

The WA figures accord with national survey statistics collated in 2018 and published by the International Bar Association (IBA).

The IBA found Australian legal professionals reported a higher rate of sexual harassment than the global average, with 47 per cent of female respondents indicating they had been sexually harassed.

On Wednesday, the Chief Justice of Western Australia, Peter Quinlan, and the heads of each of the courts and tribunals in the state released a joint public notice regarding sexual harassment in the legal profession.

"We are committed to ensuring a safe working environment for all staff," the notice said.

"Sexual harassment in any workplace is unlawful and wholly unacceptable.

"It is also contrary to the demands of justice that judicial officers are sworn to uphold."
"For that reason any form of sexual harassment by a judicial officer is not only reprehensible, but a breach of the public trust.

"In light of the outcome of the recent investigation commissioned by the High Court of Australia [regarding Dyson Heydon], courts and tribunals in Western Australia are taking steps to review their existing policies and procedures concerning this issue, and to ensure that they are effectively and clearly understood by all staff."