



**Resolution Adopted at the 77th Annual General Meeting of the Malaysian Bar
(Held on 18 Mar 2023)**

Resolution to Recognise Workplace Bullying as a Form of Misconduct

Whereas:

- (1) This motion is calling for the classification of workplace bullying as a misconduct under section 94(3) of the Legal Profession Act 1976, which states the following:
 - (3) For the purposes of this Part, “misconduct” means conduct or omission to act in Malaysia or elsewhere by an advocate and solicitor in a professional capacity or otherwise which amounts to grave impropriety and includes –

...

(k) the breach of this Act or of any rules made thereunder or any direction or ruling of the Bar Council;
- (2) Workplace bullying is a serious issue in the legal profession as evident by the numerous complaints from lawyers, pupils in chambers, and legal staff in Malaysia. The Instagram account @malaysianlawyerstories, which has been gaining traction recently, has contributed to the discourse regarding this issue by providing a platform for lawyers and pupils in chambers to anonymously share their experiences at the workplace with its audience of more than 3,000 followers. While we are unable to comment on the veracity of the stories that have been shared by this account, some of the stories that have been shared there are deeply concerning and highlights a serious problem with workplace bullying in the legal profession.
- (3) It is important to take steps to prevent and address workplace bullying as it can have a wide range of negative effects on the mental wellbeing of its victims such as anxiety, depression, Post-Traumatic Stress Disorder (PTSD) and other mental health issues. This can in turn lead to reduced job satisfaction, decreased productivity, and even long-term disability. There are physical issues that can also arise from workplace bullying and the stress caused by it such as difficulty sleeping, headaches, etc.

- (4) Workplace bullying can have a significant impact on employers as well as employees. The following are some of the ways that workplace bullying can also affect employers:
- (a) Decreased productivity: Workplace bullying can lead to decreased productivity as employees who are bullied may experience stress, anxiety, and other negative emotions that can interfere with their ability to perform their job duties effectively;
 - (b) Increased absenteeism: Employees who are bullied may choose to take time off work to avoid the abuse, leading to increased absenteeism and reduced productivity;
 - (c) Higher turnover rates: Workplace bullying can also lead to higher turnover rates, as employees who are bullied may choose to leave the law firm rather than continue to endure the abuse. This can be costly for employers, as it can result in the loss of valuable talent and the need to recruit and train new employees;
 - (d) Negative impact on organizational culture: Workplace bullying can create a toxic organisational culture, where bullying is normalized and accepted. This can make it more difficult to attract and retain top talent and can even damage the law firm's reputation;
 - (e) Legal implications: Employers who fail to take action to prevent or address workplace bullying can be held liable for damages. This can result in costly legal fees and settlements; and
 - (f) Legal and reputational risks: Law firms that fail to address workplace bullying can face legal and reputational risks, which can harm their ability to attract and retain clients and employees.
- (5) Recently, the Malaysian Bar Council took a step towards addressing another form of misconduct, by recognising sexual harassment as a misconduct. There is no reason why the same should not be done for workplace bullying. As a form of guidance as to how workplace bullying may be classified as a misconduct under section 94(3) of the Legal Profession Act 1976, we refer to Ruling 14.29 of the Rules and Rulings of the Bar Council, which states the following:

14.29. Sexual harassment constitutes misconduct under section 94(3) of the Act

- (1) Any act of sexual harassment by an Advocate and Solicitor or a pupil in a professional capacity or in a professional setting amounts to misconduct.
- (2) Sexual harassment means any unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, made directly or indirectly at a person or physically communicated in person or through the

use of any medium or physical conduct, which a reasonable person would consider to be offensive or humiliating or a threat to their well-being or comfort.

- (6) We believe that the Bar Council's ruling on sexual harassment is precedent that can be followed in setting out workplace bullying as a form of misconduct.

It is hereby resolved that:

The Bar Council shall immediately and without further delay take all necessary steps to:

- (A) Issue a new ruling under the Rules and Rulings of the Bar Council to include workplace bullying (as defined in open consultation with Members of the Bar) as a form of misconduct under section 94(3) of the Legal Profession Act 1976;
- (B) Implement confidential and independent support systems for victims of workplace bullying;
- (C) Conduct training sessions for Members of the Bar relating to workplace bullying and its detrimental effects in order to encourage the adoption of policies within law firms to prevent workplace bullying; and
- (D) Include sexual harassment and workplace bullying as mandatory topics to be discussed during the Ethics course for pupils in chambers.