

## **DRAFT: Guidance on Bullying and Intimidation (Para 9.2.8.2 Code of Conduct)**

Paragraph 9.2.8.2 of the Code of Conduct says: Councillors must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others.

The following is based on Standards for England Guidance, now archived after it was abolished by the Localism Act 2011. This guidance was key in dealing with complaints about councillor's bullying behaviour by Standards for England from 2007 to 2012. We believe therefore that it is reasonable to use the same guidance when assessing similar complaints against Members under the current Code of Conduct.

It is important to remember that such behaviour will only be caught by the Code of Conduct if a Member is acting or holding out as acting as a Member of the Authority, and not in his or her private capacity.

### **What is 'bullying' and 'intimidation'?**

Bullying has been described as 'offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual'. It can have a damaging effect on a victim's confidence, capability and health. The now disbanded Adjudication Panel which dealt with Councillor complaints used a test for whether or not bullying had occurred, which was: 'Bullying occurs when it is likely that a neutral third party, a 'reasonable member of the public' would regard conduct as bullying if they had all of the relevant facts'.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a Member will be found guilty of bullying when both parties have contributed to a breakdown in relations..

Bullying should be contrasted with the legitimate challenges which a Member can make in challenging policy or scrutinising performance. Contributing to debates in Council meetings about policy and asking officers to explain the rationale for their professional opinions are to be encouraged. All Members should feel free to challenge fellow councillors and professional officers as to why their views are held. However, Members need to be careful about criticism which becomes offensive in nature which will cross the line of what a reasonable person would find acceptable.

Intimidating officers, and pressurising them to make a particular decision is also unacceptable. Officers should make decisions which are unbiased, and attempts to coerce them or persuade them to act in a particular way to a point where to do so would prejudice their professional integrity is not acceptable.

### **Criticism of officers**

Criticism of officers will not in itself constitute bullying. Members are allowed to express disagreement with officers, and question officer performance, so long as it is

done in an appropriate and private way. A personal attack, or criticism that is offensive, is likely to cross the line of what is acceptable behaviour.

### **What are the consequences of bullying?**

The consequences of bullying and intimidating behaviour may also be looked at when a decision is made about whether bullying has occurred. When officers are bullied, it can affect the authority's ability to provide services. This is because bullying can create a working environment with an atmosphere of mistrust, insecurity and fear. In some cases, bullied officers require long periods of leave because of ill-health or stress which can damage the running of an authority. This can particularly be the case in parish and town councils, where there may only be a small team of employees. An indication that an officer has been bullied is when they feel unable to return to their role because of fear of their poor treatment by a Member. Similarly, bullying of members of the public can result in poor health, particularly if they are vulnerable.

### **Examples of intimidation and bullying from the archived Standards for England website:**

Councillor W. was a Member of a town council in the East of England conducted a relentless campaign of destructive criticism against the clerk, councillors and the council. This campaign included making unsubstantiated and inappropriate complains about the clerk in website postings, newsletters and numerous letters. The councillor's behaviour placed a significant drain on both council resources and members' time, caused staff great stress and ill health, and disrupted the normal running of the council. The Adjudication Panel disqualified the councillor for three years after noting the serious consequences of the misconduct in terms of the health and welfare of a number of individuals, the good governance, use of resources, effectiveness and the reputation of the council.

Councillor S was a member of a metropolitan authority in the North West of England. He verbally abused a woman who worked as a cleaner for the Council, after a minor traffic accident. Councillor S told her that he was going to report her to her employer and get her sacked. The tribunal was left in no doubt that a reasonable person with knowledge of the circumstances would consider that the Councillor had bullied and threatened the cleaner. This incident, as well as other intimidating behaviour towards others resulted in him being disqualified for three years.

Councillor P was a member of a district council in the East Midlands. He was abusive and aggressive towards an officer, shouting at her and publicly threatened to sack another officer. He also improperly put pressure on staff involved in discussions with their trade union and in doing so compromised their impartiality. The tribunal found his disrespectful behaviour had caused others unnecessary fear and ill health. He was disqualified for three years.