

Appendix 1

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 guidance is based on Standards for England Guidance, now archived after it was abolished by the Localism Act 2011, as well as guidance issued by ACASⁱ.

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

What is ‘bullying’ and ‘intimidation’?

Using ACAS guidance as a starting point, the Standards Committee has agreed a definition of bullying as '**offensive, intimidating or malicious behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient**'. A victim's obvious vulnerability will be taken into account when assessing whether bullying has occurred.

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.

Criticism of Officers

The Council is under a legal obligation to ensure that officers work in a safe environment and the same rules about their interaction with the public apply equally to their work with Members. Anyone should feel free to express disagreement with officers, so long as it is done in an appropriate way. 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 would not be acceptable.

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 complaints 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.

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 decided that a reasonable person with knowledge of the circumstances would consider that the Councillor had bullied and threatened the cleaner.

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 behaviour had caused others unnecessary fear and ill health.

ⁱ Bullying and harassment at work: A guide for managers, ACAS June 2014 and Archived content for Standards for England; guidance on 'Bullying and Intimidation' available upon request from the Borough Solicitor, or to download:

<http://webarchive.nationalarchives.gov.uk/20090505163356/http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/Factsheets/filedownload,16138,en.pdf>