

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code.

You must also be mindful that at all times including when acting in your private capacity you must not act in a way that would bring your Council into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity is likely to fall into this category.

Example

A member of a County Council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room Councillor A said "good candidate, shame he's black". The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that Councillor A had brought the office of member and his authority into disrepute (in breach of paragraph 6(1)(a) of the Code).

Treating others with respect and consideration

See Paragraph 4(b)

Political groupings in authorities are expected to campaign for their ideas, and they may also seek to discredit the policies and action of their opponents. Criticism of ideas and opinion is part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code of Conduct for failing to treat someone with respect and consideration.

Furthermore, a member's freedom of expression attracts enhanced protection when his comments are political in nature. "Political" comments are not confined to those made within the Council chamber and, for example, include comments members may generally make on their authority's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate complaints made in this context and councillors need a "thicker skin" in dealing with, and responding to, politically motivated comments.

Likewise, when members raise "political" issues with officers, particularly those holding senior positions, for example Chief Executives or Heads of Services, depending on the circumstances of the case I may also decline to investigate if I take the view that the member was entitled to question the officer concerned and the conduct was not sufficiently serious to amount to a failure to show respect and consideration.

However, I do expect members to afford colleagues, opponents and officers the same courtesy and consideration as they show to others in their everyday lives. Whilst I recognise that political debate can, at times, become heated, the right to freedom of expression should not be used as an excuse for poor conduct generally. Such poor conduct can only discredit the role of councillor in the eyes of the public.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should always treat members of the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectation and confidence in its elected representatives. This is the case in face to face settings such as meetings as well as when communicating by phone, letter, e-mail or other electronic means.

Example

The Adjudication Panel upheld a finding of a Standards Committee for failing to show respect and consideration for others by posting comments about other councillors and the way in which the Council was run.

The member sought judicial review of this decision. The Court found that whilst the comments which were posted were sarcastic and mocking and the tone ridiculed his fellow members, because the majority of the comments related to the way in which the Council was run, how its decisions were recorded and the competence of the councillors, the comments were "Political Expression". The ruling said no account had been taken of the need for politicians to have "thicker skins". In view of the member's freedom of expression and the fact that the majority of comments were directed at fellow councillors the finding of a breach in this case was a disproportionate interference with the member's rights under Article 10 of the European Convention on Human Rights. The Standards Committee's decision to censure the member was therefore set aside.

Example

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee ("Mr Smith") of a county council, which was also copied to the Council. In the letter the member questioned Mr Smith's competence and motivation and he made a number of comments of a disparaging and personal nature about Mr Smith and his associates. He raised the issue of homosexuality and referred to it as a "notorious disability" and that "homosexuality is only a demon which can be driven out". The member was referred to the Adjudication Panel for Wales.

The Panel found that the member had breached paragraph 4(b) in that he had failed to show respect and consideration for others. It also found that by his use of words he had brought the office of member into disrepute in breach of paragraph 6(1)(a) of the Code.

The member was disqualified for 12 months from being or becoming a member of a local authority.