THE CRIMINAL BAR ASSOCIATION

CBA GUIDANCE · COMPLAINTS PROCEDURE

Complaining About Judicial Bullying

Issued · July 2026

COUNSEL MUST BE TREATED WITH BOTH RESPECT AND COURTESY.

1. Bullying and harassment have no place in our courts and is not a necessary or acceptable hazard of working in the Courts of England and Wales. A heavy caseload of cases which are difficult takes its toll on all involved and therefore the need to ensure that behaviour in court is appropriate is essential.

2. Barristers know the difference between being "challenged" by the court as opposed to being treated in an unacceptable and bullying manner and know the difference between fair and measured criticism, judicial firmness and judicial correction or criticism of improper or inappropriate conduct of a barrister. Barristers are robust, the nature of the role requires robustness. However, it is not the role of the judiciary to make indiscriminate, offensive or unwarranted comments or make unreasonable time pressured demands under the guise of seeking further efficiencies in court, thus undermining counsel in front of their client or to the extent that counsel is in fact unable to represent their client in as full a way as the code of conduct requires.

3. For those who have not been at the Bar for long, navigating the way through what may be interpreted as "simple" judicial frustration or irritation will be stressful in itself.

All conduct must be looked at in context, but bullying is defined as:

> *"Offensive, intimidating, malicious or insulting behaviour, involving the misuse of power such as can make a person feel vulnerable upset humiliated undermined or threatened. It does not need to be intentional"*

4. Judicial officeholders are expected to be courteous, tolerant and to respect the dignity of all. Rude, aggressive and hostile behaviour, particularly when counsel is seeking to make submissions, should not be tolerated.

5. As a shorthand reminder for all court users, the following have been considered as inappropriate behaviour:

   - shouting,
   - excessive interruption,
   - intemperate language,

- deliberately saying things to embarrass or humiliate,
- asking counsel to justify themselves in circumstances that are unfair,
- personal abuse
- calling into question counsel's professionalism in circumstances that are unfair;
- sarcasm
- accusing counsel of incompetence in circumstances that are unfair;
- using facial expressions to demean or intimidate counsel;
- setting unrealistic time frames;
- making counsel work through lunch breaks;
- sending emails at all times, particularly late in the evening or at weekends
- refusing to give counsel time to formulate an argument or respond in circumstances where it is unfair

6. All counsel should behave with courtesy, be prepared for their hearing, be firm, clear and expeditious in their submissions to the court and equally set out when setting timetables what is feasible and what is not.

HOW SHOULD COUNSEL RESPOND AT THE TIME

7. How counsel should respond to incidents of poor judicial behaviour will depend upon the circumstances, however the following is a guide:

IN COURT

8. Counsel should continue to respond with courtesy and not overreact. Standards of advocacy should be maintained at all times. A measured approach may serve to illuminate the unpleasant behaviour of a time pressured Judge and may then allow for a correction to the position via explanation. If this is to no effect counsel will know that they have acted appropriately in the circumstances and this will place them in a good position when speaking with their Head of Chambers, Leader of Circuit and/or in going on to make a formal complaint.

9. Take or make a detailed note of the content of the hearing either contemporaneously or as soon as practicable. If a formal complaint is to be made counsel will be asked about the hearing. Counsel should request any other barristers who witnessed the behaviour for their view and their contact details.

10. Senior members of the Bar, if they are in court and see that a junior member of the Bar is being treated inappropriately may themselves take issue with the behaviour and with courtesy intervene and offer to assist.

VIDEO (CVP) HEARINGS

11. These hearings create problems due to the fact that they lack human interaction and the ability to address something by reference immediately in person, however they have become vital tools in barristers' day to day practice. It is essential in those hearings that counsel remain clear as to what is being requested from the court. These hearings in particular require counsel to be robust. Counsel cannot control the Judge's behaviour but again submissions should be courteous. If counsel feel they are being railroaded on a timetable such as Section 28 for example which is impossible to meet, counsel should say so. The time demands on counsel presently are more difficult than they have ever been and counsel's instincts to help at all costs is counterproductive in a landscape where the retention of counsel is proving to be a challenge. Judges and courts need to be flexible with counsel who reduced in number and fix hearings for Counsel's availability, wherever possible.

NEXT STEPS: SPEAK TO SOMEONE

12. After the hearing, counsel should take a little time to consider what has occurred and speak to someone about it, someone they trust. Counsel should not remain silent. These issues are widely understood today and there are now avenues which counsel can go down without the need to feel their future career will be compromised.

TALK TO SPOT

13. If counsel does not have a person to confide in they should not worry, counsel can utilise the Bar Council Application 'Talk to Spot'. This is a secure online tool, it is confidential and counsel can raise concerns about inappropriate comments or behaviour, harassment or discrimination. This is a vital support for practitioners. Counsel can make a record of exactly what happened and if later they decide to take the matter further that record can be used to support a complaint about the incident.

14. If Counsel give permission, your complaint in its anonymous format can be added to the Bar Council's data base and deployed as part of arguments addressing judicial behaviour.

SPEAK TO YOUR HEAD OF CHAMBERS

15. Counsel should speak to their Head of Chambers. They will be able to talk this through and Chambers should have a specific policy on judicial bullying. Above all counsel must speak out.

FORMAL COMPLAINT

16. Serious incidents of bullying and persistent bullying are likely to justify a formal complaint about a judge. The Judicial Conduct and Investigations Office (JCIO) deal with formal complaints about judicial behaviour.

SUPPORT FROM THE CBA

17. Being the subject of any bullying behaviour is debilitating and upsetting. Please report your experience using the channels above. If you wish to have support from the CBA in order to make the complaint please do not hesitate to contact us and your complaint will be passed to the Secretary and Assistant Secretary of the CBA in the first instance. We will then devise a plan in order to provide you with the assistance you need.