

ABUSIVE MEMBERS OF THE PUBLIC: LOCAL GOVERNMENT OBLIGATIONS AND RIGHTS

KEY TAKEAWAYS

Local governments, as employers, have a legal duty under the Workers Compensation Act to ensure the health and safety of their employees, including protection from abusive members of the public. This duty goes beyond protection from physical safety and includes protection from bullying and harassment. As employers, local governments, must actively prevent and address bullying and harassment by members of the public. They are required to implement formal policies and procedures to handle bullying and harassment incidents, ensuring there is a structured response when abusive conduct occurs.

There are several legal tools that can be used by local governments to “protect” their employees.

When dealing with abusive members of the public at council and committee meetings, the presiding member has the authority to remove individuals who are disruptive or acting improperly. To avoid infringing on lawful public participation and withstand judicial review, expulsion under this authority should be based on clear disruptive conduct, not merely differences of opinion or criticism. In addition, prior to ordering expulsion, the presiding member should provide at least one warning. Such an expulsion is on a meeting by meeting basis.

Local governments may impose temporary suspensions or longer-term bans on individuals who engage in repeated or serious misconduct; however, these measures must be legally justified and proportionate. Such restrictions should be used cautiously, supported by evidence of ongoing disruption or safety concerns, and consistent with procedural fairness. These measures must balance maintaining order with protecting individuals’ rights to access and participate in public meetings.

When dealing with abusive members of the public outside of meetings, local governments, as property owners, can restrict or deny access to their premises under trespass legislation when individuals engage in misconduct or pose safety concerns. This authority must be exercised reasonably and in good faith, particularly where the property is normally open to the public for civic participation. It must align with broader legal obligations, including fairness and proper notice and should not be used arbitrarily.

Finally, statements made abusive members of the public about local government officials or staff can give rise to legal liability if they are defamatory. However, the claim is that of the employee, not the local government. That being said, the caselaw suggests that, to a certain degree, criticism of local government employees (even when it is unfair) is a part of the job.