

Northamptonshire Police, Fire and Crime Panel - Complaints Sub Committee

**A meeting of the Northamptonshire Police, Fire and Crime Panel -
Complaints Sub Committee will be held in the Court Room,
The Guildhall, St Giles Square, Northampton NN1 1DE
on Friday 8 September 2023 at 10.00am**

Agenda

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| 1. | Apologies for Absence and Notification of Substitute Members |
| 2. | Appointment of Chair |
| 3. | Declarations of Interest Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting. |
| 4. | Consideration of Complaint 01/2023 (Pages 9 - 30) To consider a non-criminal complaint (reference 01/2023) concerning the conduct of the Police, Fire and Crime Commissioner for Northamptonshire. |
| 5. | Consideration of complaint 02/2023 (Pages 31 - 50) To consider a non-criminal complaint (reference 02/2023) concerning the conduct of the Police, Fire and Crime Commissioner for Northamptonshire. |
| 6. | Exclusion of Press and Public In respect of the following items the Chair may move the resolution set out below, on the grounds that if the public were present it would be likely that exempt information (information regarded as private for the purposes of the Local Government Act 1972) would be disclosed to them: The Panel is requested to resolve: "That under Section 100A of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business on the grounds that if the public were present it would be likely that exempt information under Part 1 of Schedule 12A to the Act of the descriptions against each item would be disclosed to them." |

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Catherine Whitehead
Proper Officer
31 August 2023

Northamptonshire Police, Fire and Crime Panel - Complaints Sub Committee Members:

Councillor Fiona Baker

Councillor Dorothy Maxwell

Councillor Ken Pritchard

Councillor Winston Strachan

Mrs Anita Shields

Miss Pauline Woodhouse

Information about this Agenda

Apologies for Absence

Apologies for absence and the appointment of substitute Members should be notified to democraticservices@westnorthants.gov.uk prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 3 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare that fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

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If you have any queries about this agenda please contact Democratic Services via the following:

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Email: democraticservices@westnorthants.gov.uk

Or by writing to:

West Northamptonshire Council
The Guildhall
St Giles Square
Northampton
NN1 1DE

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Northamptonshire Police, Fire & Crime Panel**Informal Resolution Protocol regarding non-criminal complaints against the Police, Fire & Crime Commissioner and Deputy Police, Fire & Crime Commissioner for Northamptonshire**

1. The Monitoring Officer of the host authority ('the Monitoring Officer') will act as the first point of contact for all complaints made against the Northamptonshire Police, Fire & Crime Commissioner (PFCC) and Deputy Police, Fire & Crime Commissioner (DPFCC) and will deal with any such complaints in accordance with the requirements of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations").
2. Any complaints received by Panel Members, by any of the Panel's constituent authorities, by the Office of the Police, Fire & Crime Commissioner (OPFCC), or by the Chief Constable of Northamptonshire will be forwarded to the Monitoring Officer as soon as is practicable on their receipt.
3. The Monitoring Officer will determine whether or not a complaint should be recorded.
4. When a complaint is recorded the Monitoring Officer will:
 - (a) Send a copy of the record made of the complaint to the complainant.
 - (b) Send a copy of the complaint to the person complained against, subject to any decision taken not to supply a copy of the complaint or to supply the complaint in a form which keeps anonymous the identity of the complainant; and
 - (c) Refer the record, and copies of all the associated paperwork, to the Panel's Secretariat no later than 2 working days after the complaint has been recorded.
5. On receipt of the complaint the Panel's Secretariat will:
 - (a) Convene a meeting of the Panel's Complaints Sub Committee, normally to be held within three weeks of the Secretariat's receipt of the complaint.
 - (b) Write to the complainant, setting out timescales and providing details about the Informal Resolution procedure; and giving the complainant an opportunity to make further comments in support of their complaint. Where the Panel's Secretariat believes that the circumstances of the case are such that the Complaints Sub Committee may decide to treat the complaint as having been resolved the complainant will be asked to provide their representations in this regard for the Complaints Sub Committee to take into account.
 - (c) Write to the person complained about, setting out timescales and providing details about the Informal Resolution procedure; and giving them an opportunity to make comments in response to the complaint.

6. The Panel's Monitoring Officer will compile a brief report for the Complaints Sub Committee, setting out the pertinent details of the complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.
7. The Complaints Sub Committee will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the Complaints Sub Committee's reasons will be recorded and notified to all parties.
8. If, on considering the report, the Complaints Sub Committee feels that the matter needs to be resolved, it will decide its course of action. In accordance with the Regulations the Complaints Sub Committee may not conduct an investigation. The Complaints Sub Committee may use its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation and will not therefore be undertaken.
9. The Complaints Sub Committee will consider whether to devise an action plan (to be drawn up by the Panel's Secretariat) and in so doing will take into account any applicable guidance issued by the Secretary of State and may also consider any guidance issued by the Independent Office for Police Conduct (IOPC) pursuant to Section 22 of the Police Reform Act 2002 on local resolution. Any such action plan will include an indicative timeframe.
10. Any such action plan may include (for example):
 - (a) An explanatory letter being written by the Panel's Secretariat (or on behalf of the Complaints Sub Committee),
 - (b) An explanatory letter being written by an officer of the OPFCC,
 - (c) A suggested change to OPFCC policy, practice or action; or
 - (d) A request that an apology is tendered (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).
11. The Complaints Sub Committee will also decide whether it wishes to:
 - (a) Reconvene to take any steps identified in the action plan,
 - (b) Authorise any named individual (who may not be the PFCC, the DPFCC or the OPFCC Chief Executive) to take any steps in accordance with the action plan; or
 - (c) Refer the matter to the full Police, Fire & Crime Panel recommending that the identified action be taken.

12. Once the actions from the plan have been completed the matter may be referred back to the Complaints Sub Committee or an authorised individual may determine that the matter has been resolved. The Panel's Secretariat must make a record of the outcome of the informal resolution as soon as practicable, normally within 3 working days, after the process is completed and provide copies to the complainant and the person complained against. The matter will then be closed.
13. No part of the record may be published by the Complaints Sub Committee unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Complaints Sub Committee considers that publication is in the public interest.
14. The Monitoring Officer will present a half-yearly update report to the full Police, Fire & Crime Panel about all complaints dealt with in the preceding six months, the actions taken (including any obligations to act, or refrain from acting, that have arisen under the Regulations but have not yet been complied with or have been contravened) and the outcome of the process.
15. If, at any stage, the IOPC informs the Panel that they require the complaint to be referred to them, or if the Complaints Sub Committee decides that the complaint should be referred to the IOPC, the Informal Resolution process will be discontinued. The Complaints Sub Committee may only decide that the complaint should be so referred if matters come to light during the Informal Resolution process that indicate the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed.

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NORTHAMPTONSHIRE POLICE, FIRE AND CRIME PANEL

COMPLAINTS SUB COMMITTEE

8 SEPTEMBER 2023

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| Report Title | Consideration of a complaint (reference 01/2023) concerning the conduct of the Police, Fire and Crime Commissioner for Northamptonshire |
| Report Author | James Edmunds, Democratic Services Assistant Manager, West Northamptonshire Council James.edmunds@westnorthants.gov.uk |

| Contributors/Checkers/Approvers | | |
|-------------------------------------|--------------------------|------------|
| Monitoring Officer | Catherine Whitehead | 31/08/2023 |
| Chief Finance Officer (S151) | James Smith, Deputy S151 | 31/08/2023 |

List of Appendices

Appendix A – Complaint 01/2023 against the Police, Fire and Crime Commissioner

Appendix B – IOPC decision letter on referral of Complaint 01/2023

Appendix C – Comments on Complaint 01/2023 from the subject of the complaint

1. Purpose of Report

- 1.1. The report is intended to enable the Northamptonshire Police, Fire and Crime Panel’s Complaints Sub Committee to consider a non-criminal complaint about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire in accordance with the Informal Resolution Protocol agreed by the Panel.

2. Executive Summary

- 2.1. The Complaints Sub Committee has been established by the Northamptonshire Police, Fire and Crime Panel to carry out specific functions relating to the consideration and resolution of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire. This report sets out details of a complaint made to the Panel by a member of the public (Complaint 01/2023) and comments responding to the complaint that have been received from the Police, Fire and Crime Commissioner. The Complaints Sub Committee is required to consider this information and to determine what action it will take on the complaint,

within the parameters set by relevant statutory requirements and the local arrangements adopted by the Panel for this purpose.

3. Recommendations

- 3.1 It is recommended the Complaints Sub Committee considers and agrees whether Complaint 01/2023 should be treated as having already been satisfactorily resolved, as set out in paragraphs 6.2 – 6.3 of the report.
- 3.2 In the event that the Complaints Sub Committee agrees that Complaint 01/2023 should not be treated as having already been satisfactorily resolved, it is further recommended that the Complaints Sub Committee considers and agrees whether Complaint 01/2023 should be subject to Informal Resolution, as set out in paragraphs 6.4 – 6.5 of the report.
- 3.3 In the event that the Complaints Sub Committee agrees that Complaint 01/2023 should be subject to Informal Resolution, it is further recommended that the Complaints Sub Committee:
 - a) Considers and agrees actions to be taken in response to Complaint 01/2023 in accordance with the Informal Resolution Protocol.
 - b) Considers and agrees arrangements to determine that Complaint 01/2023 has been resolved following the completion of agreed actions.
- 3.4 Reasons for Recommendation(s) – The recommendations are intended to enable the Complaints Sub Committee to consider Complaint 01/2023 in a systematic way that reflects statutory requirements relating to the consideration of complaints about the Police, Fire and Crime Commissioner for Northamptonshire and the arrangements that the Northamptonshire Police, Fire and Crime Panel has adopted to carry out this function.

4. Report Background

- 4.1 The Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 require Police (Fire) and Crime Panels to adopt a process for carrying out “Informal Resolution” of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner (PFCC) and – if appointed – the Deputy Police, Fire and Crime Commissioner (DPFCC). For reference, complaints that involve, or that appear to involve, a criminal offence are dealt with by the Independent Office for Police Conduct (IOPC).
- 4.2 Informal Resolution is intended to represent a locally-agreed process for resolving a complaint as far as possible by mediation between the complainant and the subject of the complaint. It is not an investigation of the complaint: a Panel is prohibited from taking any action intended to gather information about a complaint other than inviting comments from the complainant and the subject of the complaint.
- 4.3 The Northamptonshire Police, Fire and Crime Panel (the Panel) has an agreed Informal Resolution Protocol, which was adopted soon after the establishment of the Panel and which has been

reviewed and updated as necessary since. The current Protocol is included with the agenda front sheet for this meeting.

4.4 The Panel also operates a Complaints Sub Committee to which it delegates the following powers and duties:

- a) Where a complaint or conduct matter comes to the Sub Committee's attention it must secure that all appropriate steps are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct in question and to comply with any directions given by the IOPC in this regard.
- b) To provide the IOPC and every member of its staff with such assistance as it may reasonably require in connection with the carrying out of any investigation by the IOPC or by anyone appointed to carry out an investigation on its behalf.
- c) To determine whether a complaint that has been recorded should be subject to Informal Resolution or should be excluded from Informal Resolution on grounds identified in the 2012 Regulations, and in that case, to determine how to handle the matter or whether to take no action in relation to it.
- d) To deal with the Informal Resolution of complaints in accordance with the requirements of the 2012 Regulations.

4.5 The Complaints Sub Committee consists of 4 councillor members of the Police, Fire and Crime Panel (3 councillor members from the Conservative councillors on the Panel and 1 councillor member from the Labour councillors on the Panel) and 1 independent co-opted member drawn from the pool of all of the independent co-opted members on the Panel. The Sub Committee members in 2023/24 are:

- Councillor Fiona Baker
- Councillor Dorothy Maxwell
- Councillor Ken Pritchard
- Councillor Winston Strachan
- Mrs Anita Shields / Miss Pauline Woodhouse

5. Complaint 01/2023

5.1 The Chair of the Panel received a complaint about the conduct of the PFCC on 27 July 2023. The complaint was then brought to the attention of the Monitoring Officer of West Northamptonshire Council, who has delegated responsibility from the Police, Fire and Crime Panel for formally receiving and recording all complaints about the conduct of the PFCC. Following consideration of the complaint the Monitoring Officer formally recorded it on 1 August 2023 and determined that it should be referred to the IOPC as a complaint about conduct that

constitutes or involves, or appears to constitute or involve, the commission of a criminal offence. The complainant and the subject of the complaint were advised of this referral.

- 5.2 Details of the complaint (referred to as Complaint 01/2023) are included with this report at Appendix A. A summary of the complaint is as follows:

The proposed appointment of Nicci Marzec as interim Chief Fire Officer of Northamptonshire involved a failure by the Police, Fire and Crime Commissioner to declare a disclosable pecuniary interest when making a decision and that appears to represent a criminal offence under the Localism Act 2011 and may also represent a criminal offence of misconduct in public office.

- 5.3 The IOPC assessed Complaint 01/2023 and determined that it did not need to investigate it further because it concluded the information provided did not indicate conduct by the PFCC that constituted or involved, or appeared to constitute or involve, the commission of a criminal offence at this time. A copy of the IOPC's letter setting out its conclusions sent to the Monitoring Officer on 10 August 2023 is included with this report at Appendix B.
- 5.4 The legislation relating to complaints about the conduct of the PFCC referred to in paragraph 4.1 above requires that when the IOPC determines not to investigate a complaint and refers it back to the relevant panel the complaint should then be subject to informal resolution. Complaint 01/2023 was therefore referred to the Panel Secretariat to convene a meeting of the Complaints Sub Committee to consider the complaint in accordance with the Informal Resolution Protocol. The Panel Secretariat has written to the complainant and to the subject of the complaint in advance of this Sub Committee meeting providing details about Informal Resolution. The subject of the complaint was given the opportunity to make comments in response to the complaint. The complainant was given the opportunity to make further comments in support of their original complaint should they wish to do so. Comments received from the subject of the complaint are included with this report at Appendix C. No further comments have been received from the complainant.
- 5.5 It is usual practice for the Complaints Sub Committee to meet in private session when it considers a complaint about the conduct of the PFCC. However, the issues that have given rise to this complaint have already been discussed in public and the facts of the complaint have been well publicised. The Monitoring Officer has therefore determined that it does not appear to be in the public interest for the Complaints Sub Committee to consider this complaint in private session. This reflects the nature of the current complaint and is not intended to set a precedent for the future.

6. Issues and Choices

- 6.1 The Complaints Sub Committee must use the current meeting to consider Complaint 01/2023. The Sub Committee should consider the following questions, taking into account the information relating to the complaint that has been provided to it and recognising that the Sub Committee's remit concerns complaints about the conduct of the PFCC.

Whether Complaint 01/2023 has already been resolved

- 6.2 The Complaints Sub Committee should first consider whether Complaint 01/2023 has already been satisfactorily dealt with by the time of the current meeting. If it appears to the Sub Committee that action has been taken that means the complaint has already been satisfactorily dealt with it may decide to treat the complaint as having been resolved. If this is the case the Sub Committee's reasons for reaching this conclusion will be recorded and notified to the complainant and the subject of the complaint.
- 6.3 In accordance with the Informal Resolution Protocol the complainant has been given the opportunity to make representations with regard to this question. No representations have been received from the complainant.

Whether the Informal Resolution process should apply to Complaint 01/2023

- 6.4 If the Complaints Sub Committee concludes that Complaint 01/2023 has not already been resolved it is then required to determine whether it should be subject to Informal Resolution or should be excluded from this process on grounds identified in legislation. The grounds for excluding a complaint from Informal Resolution are as follows:
- a) The complaint is concerned entirely with the conduct of the PFCC or DPFCC in relation to a member of their staff at the time when the conduct is supposed to have taken place.
 - b) More than 12 months have elapsed between the incident giving rise to the complaint and the making of the complaint, and either no good reason for the delay has been shown or injustice would be likely to be caused by the delay.
 - c) The matter is already the subject of a complaint.
 - d) The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address.
 - e) The complaint is repetitious, or is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints.
- 6.5 If the Sub Committee considers that a complaint should be excluded from Informal Resolution it must then determine how to deal with the matter, which may include determining to take no action in relation to it. If the Sub Committee determines to deal with a complaint other than by Informal Resolution, or to take no action in relation to it, the complainant shall be notified of this.

Informal Resolution of Complaint 01/2023

- 6.6 If the Complaints Sub Committee determines that Complaint 01/2023 should be subject to Informal Resolution it should then consider what action it may take to assist in clarifying or resolving the issues raised in the complaint. The Sub Committee's freedom to act is governed by the legislation. In particular, it should note that:

- a) The Sub Committee may not conduct an investigation of the matter. It may use powers delegated to it to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation and should not therefore be undertaken.
- b) The Sub Committee does not have the power to overturn a decision by the person complained against, to censure them, to require them to make an apology or to issue an apology on their behalf.

6.7 In accordance with the Informal Resolution Protocol agreed by the Panel the type of action that the Sub Committee may consider taking includes:

- Agreeing that further information or an explanation of a situation be provided to the complainant by the Panel Secretariat (or on behalf of the Sub Committee);
- Recommending that further information or an explanation of a situation be provided to the complainant by a member of staff from the Office of the Police, Fire and Crime Commissioner (OPFCC);
- Recommending a change to OPFCC policy, practice or action;
- Requesting that the person complained against offers an apology to the complainant (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).

6.8 The Sub Committee should consider the timeframe within which any actions identified through Informal Resolution are to be completed. It should also consider arrangements to determine that the matter has been resolved following the completion of these actions. The Informal Resolution Protocol specifies that once recommended actions have been completed the matter may be referred back to the Sub Committee to determine that it has been resolved. Alternatively, the Sub Committee may authorise an individual (for example, the Sub Committee Chair) to determine this on its behalf. The Panel Secretariat must make a record of the outcome of Informal Resolution and provide copies to the complainant and the subject of the complaint. The matter will then be closed.

Requesting further information on Complaint 01/2023

6.9 Paragraph 6.6(a) of this report notes that the Complaints Sub Committee may require the person complained against to provide information to it, or to attend before it to answer questions, when the Sub Committee reasonably considers that this is necessary for it to carry out its functions.

6.10 Individual Sub Committee members are asked to consider the information about Complaint 01/2023 provided with this report and then to advise the Panel Secretariat as quickly as possible before the Sub Committee meeting on 8 September 2023 if they think that they need further information in order to complete consideration of the complaint at the meeting. The Panel Secretariat will aim to request this information from the OPFCC with a view to it being provided

to the Sub Committee for the meeting on 8 September 2023. This approach is intended to assist the Sub Committee to complete consideration of the complaint promptly at a single meeting as far as possible, rather than needing to convene a second meeting to consider additional information that may be requested on 8 September 2023.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no specific resource or financial implications arising from the proposal. The Complaints Sub Committee operates within the overall resources available to support the Police, Fire and Crime Panel.

7.2 Legal

7.2.1 There are no specific legal implications arising from the proposal. The consideration and resolution of complaints about the conduct of the Police, Fire and Crime Commissioner is a statutory function of the Police, Fire and Crime Panel and is carried out according to set arrangements that meet the applicable requirements.

7.3 Risk

7.3.1 It is important that the Complaints Sub Committee deals with non-criminal complaints in accordance with statutory requirements and the local arrangements that the Panel has adopted for this purpose. The parameters applying to the Informal Resolution process and to the types of action that can result from it are set out in paragraphs 6.6 – 6.7 above. The Sub Committee should ensure that it has sufficient regard to these factors when considering Complaint 01/2023 so as not to risk producing an outcome that is open to challenge. The information presented in this report and advice that may be given to the Sub Committee at the meeting as necessary is intended to assist in mitigating this risk.

8. Background Papers

Police Reform and Social Responsibility Act 2011

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

Police and Crime Panel Regulations: Non-Criminal Complaints and Misconduct – Home Office Guidance

Northamptonshire Police, Fire and Crime Panel Rules of Procedure

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Cllr David Smith
Chair – Police and Crime Panel
West Northamptonshire Council
One Angel Square
Northampton

27 July 2023

Dear David

Complaint Against Stephen Mold

- **Unlawful appointment of Ms Nicci Marzec to Acting Chief Fire Officer**
- **Multiple breaches of the OFPC Code of Conduct**
- **Misconduct in a Public Office**
- **Failure to make a disclosable pecuniary interest**

I refer to the recent media stories about the Police, Fire and Crime Commissioner for Northamptonshire, Stephen Mold and Ms Nicci Marzec, whom he appointed to be Chief Fire Officer.

Whilst Ms Marzec has now resigned the office to which she was appointed the recent publication of the agenda for the Police, Fire and Crime Panel raises many issues as to the lawfulness of the first appointment.

The Agenda pack available here

<https://westnorthants.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=1339&Ver=4>

Item 5b has a report from Mr Mold setting out his request for the confirmation hearing for the appointment of Mr Mark Jones as temporary Chief Fire Officer.

In the report Mr Mold sets out in the introduction at paragraphs 1.2 – 1.4 the legal obligations that he has to comply with:

*1.2 The Police, Fire and Crime Panel **is required** to undertake a confirmation hearing to review and endorse the appointment of a Chief Fire Officer.*

*1.3 In line with the Policing and Crime Act 2017 schedule A2 (8(1)) with ref to section 28 (5) of the Police Reform and Social Responsibility Act / Schedule 8, in relation to the confirmation of a new Chief Fire Officer, the Northamptonshire Police, Fire and Crime Commissioner **must** notify the Northamptonshire Police, Fire and Crime Panel of his preferred appointment to the post.*

*1.4 The Commissioner **must** include the following information in the notification: a) the name of the person whom the commissioner is proposing to appoint ("the candidate"). b) the criteria used to assess the suitability of the candidate for the appointment. c) why the candidate satisfies those criteria; and d) the terms and conditions on which the candidate is to be appointed.*

*The Police, Fire and Crime Panel **is required** to undertake a confirmation hearing to review and endorse the appointment of a Chief Fire Officer.*

This procedure was not followed for the appointment of Ms Marzec. The failure to follow the legal steps necessary for that appointment must render it ultra-varies and unlawful.

Following the appointment of Ms Marzec there have been a many media stories about the relationship of Mr Mold and Ms Marzec. Mr Mold freely admits to a close personal friendship, but the press have alleged he is in a relationship with Ms Nicci Marzec.

That freely admitted personal friendship was sufficient for him to have made a declaration of a conflict of interest and recused himself from any such appointment. This is a clear breach of the Code of Conduct rather than a breach of the law. I would ask that you also refer this aspect for consideration also. Section 6 of the OPFC Code of Conduct states

6. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

6.1 *If you are involved in appointments you should ensure these are made on the basis of merit. It would be unlawful for you to make an appointment which is based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, you must not be involved in any stage of the selection process where you are related to the applicant or have a close personal relationship.*

6.2 *If you are canvassed by a candidate or by a person on behalf of a candidate you should report this to the Monitoring Officer in order to ascertain the appropriate action to be taken.*

6.3 *Similarly, you should not be involved in decisions relating to discipline, promotion or pay for any employee who is a relative, partner or you have a close personal relationship with.*

Sections 11 & 12 of the OPFCC Code of Conduct state:-

11. USE OF PROPERTY AND FACILITIES

11.1 *The OPFCC provides facilities, equipment and other property to facilitate the conduct of business. You should not use anything provided to you for personal use without the express permission of the Monitoring Officer. If you have been given permission to use anything for private purposes, you must reimburse the OPFCC for any additional costs incurred as part of this arrangement*

12. SEPARATION OF ROLES DURING TENDERING

12.1 *If you are involved in the tendering process and deal with contractors or suppliers of services you should be clear on the separation of client and contractor roles within the OPFCC. *

12.2 *If you have both a client and contractor responsibility you must be aware of the need for accountability and openness.*

12.3 *If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose this information to any unauthorised party or organisation.*

12.4 *You should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in the awarding of contracts to businesses run by them or employing them in a senior or relevant managerial capacity.*

A recent press report on NN Journal (25 July 23) stated that Ms Marzec was using the offices of Mr Mold's company and working from there. Whilst this section deals with property it can be applied to resources. If Mr Mold is using staff on the OPFCC payroll to work at his company once again this is clear breach of the code and needs investigation.

The appointment of close personal friend Ms Marzec is a clear breach of Section 12.4 of the Code of Conduct

Section 13 of the OPFCC Code of Conduct states:-

13. CORRUPTION

13.1 *You must be aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, payment, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. If an allegation is made against you, the law requires you to demonstrate that any such rewards have not been corruptly obtained.*

As I said above Mr Mold did not go through the process that he has set out to be the legal requirement for the appointment of the Chief Fire Officer and he clearly showed a favour to his close personal friend as the criteria and suitability for her appointment has not been set out. This again may be a breach of the code of conduct and needs full and thorough investigation.

All of what I have set out thus far is a possible breach of the Code of Conduct, but Mr Mold I would suggest may have committed criminal offences.

The Daily Mail story, (Sun 23 July 23) claims that Mr Mold and Ms Marzec are not just friends but partners. I would be very surprised that a national newspaper would publish such allegations without a high degree of certainty that they could defend any potential libel action.

Although Mr Mold and Ms Marzec deny that they are in, or have ever been in, a relationship this requires investigation in order to ensure confidence in the Office of Police Fire and Crime Commissioner. Should it prove to be the case that they are in fact a couple, then Mr Mold may have committed offences, namely of failure to declare a disclosable pecuniary interest as set out in the Localism Act 2011, and Misconduct in a Public Office.

West Northamptonshire Council

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Our Ref
Your Ref



CPS guidance states that the offence of Misconduct in a Public office is committed when:

- a public officer acting as such
- wilfully neglects to perform their duty and/or wilfully misconducts themselves
- to such a degree as to amount to an abuse of the public's trust in the office holder
- without reasonable excuse or justification

Clearly he was acting as the Police, Fire and Crime Commissioner in appointing an interim Chief Fire Officer.

If Mr Mold and Ms Marzec are partners this is such a clear conflict of interest that Mr Mold should have recused himself from any such appointment. This arguably falls within the wilful definition of the CPS guidance namely, *"deliberately doing something which is wrong knowing it to be wrong or with reckless indifference as to whether it is wrong or not"*.

It would be a clear disclosable pecuniary interest that was not declared.

It is clear there is already a loss of trust in the OFPCC however this is a subjective test and I am aware may be politically motivated rather than objectively assessing facts for misconduct in a public office. Case law has defined this as:

"... an affront to the standing of the public office held. The threshold is a high one requiring conduct so far below acceptable standards as to amount to an abuse of the public's trust in the office holder."

I would argue that this threshold has been met.

Whether or not Mr Mold may have reasonable excuse or justification, would be for any investigation to ascertain and assess all the relevant facts and evidence.

These are all serious matters that require full and thorough investigation by the relevant competent authorities with Mr Mold afforded a proper opportunity to state his case.

I am aware that any serious conduct allegation against a Police, Fire and Crime Commissioner must be referred to the Independent Office for Police Conduct. I therefore ask that you refer this complaint to the IOPC for investigation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Ian McCord", on a light grey background.

Cllr Ian McCord

Independent Councillor for Deanshanger Ward

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Our reference number: 2023/192021
Your reference number: TBC



Northamptonshire Police, Fire and Crime Panel
One Angel Square,
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10 August 2023

Dear Ms Whitehead,

Referral of Serious Complaint to the IOPC – Mr Ian McCord

Thank you for your referral of 1 August 2023.

The IOPC has decided that this matter should be returned to you to be dealt with in accordance with Part 4 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. Based on the information provided, we do not feel an investigation by the IOPC is required at this stage. This is because it was not considered that there was an indication that Mr Stephen Mold's conduct constituted or involved, or appeared to constitute or involve, the commission of a criminal offence at this time.

When considering whether this complaint requires investigation, I have considered if the conduct complained about constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

In his complaints, Mr McCord has alleged the following;

- Unlawful appointment of Ms Marzec to Acting Chief Fire Officer
- Multiple breaches of the OFPCC Code of Conduct
- Misconduct in a Public Office and failure to make a disclosable pecuniary interest

My decision has concentrated on alleged criminality as any possible breaches of codes of conduct (while relevant to the overall decision) do not fall within the remit of the IOPC. The two criminal offences being alleged are a failure to declare a disclosable pecuniary interest contrary to s.34 of the Localism Act 2011 and Misconduct in Public Office (MIPO).

The Localism Act provisions relate to the obligation on members of "relevant

authorities" to declare a "disclosable pecuniary interest" in relation to the functions of that authority. S.43(1) of the Localism Act 2011 defines a "relevant authority" as

- “(i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, or
- (j) in relation only to sections 38, 40 and 41 and this section, a fire and rescue authority created by an order under section 4A of that Act”.

This means that ss. 30 and 31 of the Localism Act do not apply to Police, Fire and Crime Commissioners because they are not relevant authorities for the purposes of those sections of the Act. In addition, while there is an obligation for PCCs to publish a register of interests, it is not a criminal offence to fail to do so. The Localism Act would not therefore appear to be applicable in these circumstances.

The offence of MIPO is committed when;

- a public officer acting as such
- wilfully neglects to perform their duty and/or wilfully misconducts themselves
- to such a degree as to amount to an abuse of the public's trust in the office holder
- without reasonable excuse or justification

I have therefore considered if Mr Mold made the appointment of Ms Marzec knowing it to be wrong or with reckless indifference as to whether it was wrong or not. Also whether he abused the public's trust without reasonable justification or excuse. There is a very high bar of seriousness for a MIPO offence. The alleged conduct must have injured the public interest or abused public trust to such a degree as to warrant criminal punishment. Mere negligence or even a serious mistake will not suffice.

In terms of the procedural aspect of the appointment, Mr Mold had access to legal advice from outside of his office (so arguably some level of independence) that he could make the appointment without going to the panel. It is therefore unclear to me that Mr Mold made the appointment knowing it to be wrong even though the legal advice has subsequently been shown to be incorrect. In terms of reckless indifference, it is a concern that Mr Mold has subsequently admitted that he has a personal friendship with Mrs Marzec beyond work. As a result, it should perhaps have been clear to Mr Mold that even though the legal advice may have allowed him to make the appointment, not declaring the apparent conflict or seeking additional approval would leave him open to challenge. That said Mr Mold has provided mitigation in respect of the fact the appointment was only ever temporary, he had no deputy but needed an urgent appointment to cover the Grand Prix and Ms Marzec had the requisite experience. In light of the fact that an urgent appointment may have been justifiable, I am again unclear as to how it can be currently argued Mr Mold acted with reckless indifference and therefore that there is an indication he may have committed the offence of MIPO.

Considering the nature of what has been alleged and the information provided, I do not consider that an investigation is necessary as there is not an indication the circumstances as set out involve or appear to involve the commission of a criminal offence. We have therefore decided to return the matter to you to be dealt with in a

manner that you consider appropriate in accordance with Part 4 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. If at any point following this decision the appropriate authority identifies new evidence which might merit this decision being reconsidered, the matter should be re-referred.

A copy of the letters sent to Mr McCord and Mr Mold have been enclosed. A copy of this decision letter is also being provided to Mr McCord.

If you have any questions about this matter, please do not hesitate to contact me.

Yours sincerely,



Head of Assessment Unit
Independent Office for Police Conduct (IOPC)

P.O.Box 473

Salisbury

Wiltshire

Mob: [REDACTED]

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NORTHAMPTONSHIRE
POLICE, FIRE & CRIME
COMMISSIONER

Stephen Mold

Darby House, Darby Close,
Park Farm Industrial Estate,
Wellingborough, NN8 6GS

James Edmunds
Assistant Manager - Democratic Services
West Northamptonshire Council
One Angel Square
Angel Street
Northampton
NN1 1ED

29/08/2023

**Informal Resolution of a Non-Criminal complaint against the Police, Fire & Crime
Commissioner for Northamptonshire, reference 01/2023
- Response from PFCC Stephen Mold**

Dear James,

Further to your letter dated 22nd August 2023 in relation to the non-criminal complaint against the Police, Fire & Crime Commissioner for Northamptonshire reference 01/2023, I would like to formally respond to the issues raised by the complainant.

In the complaint there are four key areas about which the complainant wishes to complain:

- Unlawful appointment of Ms Nicci Marzec to Acting Chief Fire Officer
- Multiple breaches of the OPFCC Code of Conduct
- Misconduct in Public Office
- Failure to make a disclosable pecuniary interest

I will take each of the matters in turn in my response.

Unlawful appointment of Ms Nicci Marzec to Acting Chief Fire Officer

In their complaint, the complainant references a report submitted to the Police, Fire and Crime Panel ('the Panel'), and in particular, sections of legislation relating to legal obligations and confirmation hearings.

Whilst the complainant is correct in asserting that I have a duty to follow a confirmation process for a substantive Chief Fire Officer (CFO), the legislation does not reference temporary arrangements. This is the key issue in questions here.



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Stephen Mold

Darby House, Darby Close,
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Following the departure of Mr Mark Jones, the previous substantive CFO, I needed to ensure that arrangements were put in place until such time as I was able to recruit a new CFO. At the time, advice was sought from the East Midlands regional legal services team, and I was advised that the confirmation hearing process did not apply in this case. Following this advice, I took the decision to appoint the Chief Executive and Monitoring Officer for the OPFCC into the role on a temporary basis.

Separately, the Monitoring Officer for the Panel also sought advice on the matter and the advice they received differed from that which I had received and suggested that a confirmation hearing process should be followed.

In light of this contrary view, it should be noted that for both the appointments of Simon Tuhill as Acting CFO, and David Peet as Interim Chief Executive and Monitoring Officer of my office, have both been through a confirmation hearing process.

As there were differing legal views, and different practices in other areas, I wrote to the Home Office to seek further guidance from them. In his response, Rt Hon Chris Philp MP (Minister of State for Crime, Policing and Fire) stated:

“Although there are no provisions for interim arrangements in the legislation, the expectation is that appointments would also be referred to the panel when making an interim appointment, as has been the case in other areas.”

As you can see, the Minister has confirmed that there are no provisions for interim arrangements, and whilst he goes on to suggest that referrals have been made in other areas, this has not been the case everywhere. As a result of this clarification, I will be sharing the Minister’s view with the Association of Police and Crime Commissioners to ensure that other PCCs or PFCCs operate in line with this view.

I would also point out that despite the approach I took, based on the advice I had at the time, I did contact the Chairman of the Police, Fire and Crime Panel, Cllr. David Smith before the formal communication was sent out to staff and hours before the media release. I also tried to organise a briefing for Panel members in the week commencing July 10, which was initially confirmed in the diary, but that date was cancelled.

I therefore suggest that whilst with the benefit of hindsight it might have been more appropriate to follow the process for the appointment of a substantive CFO, my appointment of Ms Marzec into the role was not unlawful.



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I would also add that this complaint was referred to the Independent Office for Police Conduct (IOPC) and their assessment was that they did not need to investigate it, a course of action they would be unlikely to take if they considered that my actions were unlawful.

Multiple breaches of the OPFCC Code of Conduct

In their complaint, the complainant references a number of areas of the OPFCC Code of Conduct that they alleged I have breached. For clarity I will address each of these individually.

6. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

When deciding on the appointment of an acting CFO, there were a number of issues I needed to consider. Clearly one of these was merit and the capability of an individual to undertake the role. Ms Marzec is a highly skilled and experienced senior leader who has worked in my office leading the team for a number of years.

I am aware that there have been issues raised in the media about previous operational fire service experience. I would urge the Panel to remember that the role of CFO is currently being successfully undertaken by a number of people who have come into the role with no previous fire service experience.

I have always been very clear about the fact that Ms Marzec and I are friends, but that our relationship is not one that could be described a 'close personal relationship'. I do not, therefore feel that this part of the Code of Conduct would be engaged in this situation.

11. USE OF PROPERTY AND FACILITIES

I believe that the issue here for the complainant is the fact that Ms Marzec had worked, on occasion, from the premises of a separate business that I own and run. Again, I have been open and transparent about my ownership of a business outside of my role as PFCC. My role as PFCC allows me to work in an agile way and there are times when I will have based myself in my business premises. (This has increased post-covid.) At times Ms Marzec would also work out of this office space. This is, in my opinion, akin to us both working at a coffee shop or shared office facility. All work is undertaken on OPFCC (Force) equipment and using the secure police Virtual Private Network.

12. SEPARATION OF ROLES DURING TENDERING

Here the complainant has specifically referenced "special favour" towards current employees in relation to appointments. As I have previously stated, the decision to appoint Ms Marzec into the temporary role was based on merit and her experience of senior organisational leadership.



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As the Panel know, Simon Tuhill was due to join the service as Deputy Chief Fire Officer on July 18th 2023, and I felt it would have been inappropriate for an officer more junior than him in his substantive role, to be acting up in a position more senior to him. Therefore, I did not invite any expressions of interest from the senior management team in the Fire and Rescue Service.

13. CORRUPTION

Here the complainant references showing favour, which I have already covered. There is also a reference to the suggestion that the appointment was unlawful, again I have covered this earlier in my submission.

Misconduct in Public Office

In this section of his complaint the complainant references an article from The Daily Mail, in which the paper suggests that my relationship with Ms Marzec is that of partners, rather than friends. As I have stated repeatedly, this is not the case. We are friends, that is all.

The complainant states that he believes that the threshold for Misconduct in Public Office has been met – again I would respectfully suggest that if that were the case the IOPC would not have passed this matter back to the Panel to deal with.

Failure to disclose a disclosable pecuniary interest

The complainant rightly points out that were I to be in a relationship with Ms Marzec, I would be required to disclose a pecuniary interest under the Localism Act 2011. I am, however, not in such a relationship and so this does not apply.

Every year, as part of the annual audit process, I am required to complete a statement on related parties. This is also a requirement for the Chief Executive. Every year this has been completed and submitted this to the Chief Finance Officer/Section 151 Officer.

This entire situation has been challenging for both me and Ms Marzec. There has been learning from it, as evidenced in the process followed for the appointment of the interims from both the CFO and Chief Executive following Ms Marzec's departure.

I remain committed to ensuring that I discharge my responsibilities and duties in line with all relevant legislation. I hope that my record of investment in and support for Northamptonshire Fire and Rescue Service and Northamptonshire Police and the safety of the people of this county will speak for itself. I have only ever worked to create the conditions where firefighters



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and police officers can give their best for the county. My responsibility is to appoint the leaders of Northamptonshire Fire and Rescue Service and Northamptonshire Police, with your help. I hope that the facts set out in this response explain how that happened on this occasion.

Yours sincerely

A handwritten signature in blue ink that reads "Stephen Mold".

Stephen Mold

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NORTHAMPTONSHIRE POLICE, FIRE AND CRIME PANEL

COMPLAINTS SUB COMMITTEE

8 SEPTEMBER 2023

| | |
|----------------------|--|
| Report Title | Consideration of a complaint (reference 02/2023) concerning the conduct of the Police, Fire and Crime Commissioner for Northamptonshire |
| Report Author | James Edmunds, Democratic Services Assistant Manager, West Northamptonshire Council James.edmunds@westnorthants.gov.uk |

| Contributors/Checkers/Approvers | | |
|--|--------------------------|------------|
| Monitoring Officer | Catherine Whitehead | 31/08/2023 |
| Chief Finance Officer (S151) | James Smith, Deputy S151 | 31/08/2023 |

List of Appendices

Appendix A – Complaint 02/2023 against the Police, Fire and Crime Commissioner

Appendix B – Comments on Complaint 02/2023 from the subject of the complaint

1. Purpose of Report

- 1.1. The report is intended to enable the Northamptonshire Police, Fire and Crime Panel’s Complaints Sub Committee to consider a non-criminal complaint about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire in accordance with the Informal Resolution Protocol agreed by the Panel.

2. Executive Summary

- 2.1. The Complaints Sub Committee has been established by the Northamptonshire Police, Fire and Crime Panel to carry out specific functions relating to the consideration and resolution of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire. This report sets out details of a complaint made to the Panel by a member of the public (Complaint 02/2023) and comments responding to the complaint that have been received from the Police, Fire and Crime Commissioner. The Complaints Sub Committee is required to consider this information and to determine what action it will take on the complaint, within the parameters set by relevant statutory requirements and the local arrangements adopted by the Panel for this purpose.

3. Recommendations

- 3.1 It is recommended the Complaints Sub Committee considers and agrees whether Complaint 02/2023 should be treated as having already been satisfactorily resolved, as set out in paragraphs 6.2 – 6.3 of the report.
- 3.2 In the event that the Complaints Sub Committee agrees that Complaint 02/2023 should not be treated as having already been satisfactorily resolved, it is further recommended that the Complaints Sub Committee considers and agrees whether Complaint 02/2023 should be subject to Informal Resolution, as set out in paragraphs 6.4 – 6.5 of the report.
- 3.3 In the event that the Complaints Sub Committee agrees that Complaint 02/2023 should be subject to Informal Resolution, it is further recommended that the Complaints Sub Committee:
- a) Considers and agrees actions to be taken in response to Complaint 02/2023 in accordance with the Informal Resolution Protocol.
 - b) Considers and agrees arrangements to determine that Complaint 02/2023 has been resolved following the completion of agreed actions.
- 3.4 Reasons for Recommendation(s) – The recommendations are intended to enable the Complaints Sub Committee to consider Complaint 02/2023 in a systematic way that reflects statutory requirements relating to the consideration of complaints about the Police, Fire and Crime Commissioner for Northamptonshire and the arrangements that the Northamptonshire Police, Fire and Crime Panel has adopted to carry out this function.

4. Report Background

- 4.1 The Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 require Police (Fire) and Crime Panels to adopt a process for carrying out “Informal Resolution” of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner (PFCC) and – if appointed – the Deputy Police, Fire and Crime Commissioner (DPFCC). For reference, complaints that involve, or that appear to involve, a criminal offence are dealt with by the Independent Office for Police Conduct (IOPC).
- 4.2 Informal Resolution is intended to represent a locally-agreed process for resolving a complaint as far as possible by mediation between the complainant and the subject of the complaint. It is not an investigation of the complaint: a Panel is prohibited from taking any action intended to gather information about a complaint other than inviting comments from the complainant and the subject of the complaint.
- 4.3 The Northamptonshire Police, Fire and Crime Panel (the Panel) has an agreed Informal Resolution Protocol, which was adopted soon after the establishment of the Panel and which has been reviewed and updated as necessary since. The current Protocol is included with the agenda front sheet for this meeting.

- 4.4 The Panel also operates a Complaints Sub Committee to which it delegates the following powers and duties:
- a) Where a complaint or conduct matter comes to the Sub Committee's attention it must secure that all appropriate steps are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct in question and to comply with any directions given by the IOPC in this regard.
 - b) To provide the IOPC and every member of its staff with such assistance as it may reasonably require in connection with the carrying out of any investigation by the IOPC or by anyone appointed to carry out an investigation on its behalf.
 - c) To determine whether a complaint that has been recorded should be subject to Informal Resolution or should be excluded from Informal Resolution on grounds identified in the 2012 Regulations, and in that case, to determine how to handle the matter or whether to take no action in relation to it.
 - d) To deal with the Informal Resolution of complaints in accordance with the requirements of the 2012 Regulations.
- 4.5 The Complaints Sub Committee consists of 4 councillor members of the Police, Fire and Crime Panel (3 councillor members from the Conservative councillors on the Panel and 1 councillor member from the Labour councillors on the Panel) and 1 independent co-opted member drawn from the pool of all of the independent co-opted members on the Panel. The Sub Committee members in 2023/24 are:
- Councillor Fiona Baker
 - Councillor Dorothy Maxwell
 - Councillor Ken Pritchard
 - Councillor Winston Strachan
 - Mrs Anita Shields / Miss Pauline Woodhouse

5. Complaint 02/2023

- 5.1 The Panel Secretariat received a complaint about the conduct of the PFCC on 9 August 2023. The complaint was initially made to the IOPC, which re-directed it to the Customer Services team at the Office of the Police, Fire and Crime Commissioner (OPFCC) for Northamptonshire. The OPFCC then advised the complainant to contact the Police, Fire and Crime Panel. The Panel Secretariat brought the complaint to the attention of the Monitoring Officer of West Northamptonshire Council, who has delegated responsibility from the Panel for formally receiving and recording all complaints about the conduct of the PFCC. Following consideration of

the complaint the Monitoring Officer formally recorded it on 18 August 2023. The complainant and the subject of the complaint were advised of this.

- 5.2 Details of the complaint (referred to as Complaint 02/2023) are included with this report at Appendix A. A summary of the complaint is as follows:

In appointing Nicci Marzec as Chief Fire Officer the PFCC did not meet the legal requirements to consult with the Police, Fire and Crime Panel, whilst the appointment of someone the PFCC described as a close friend was also a cause for concern.

- 5.3 Having been formally recorded Complaint 02/2023 was referred to the Panel Secretariat to convene a meeting of the Complaints Sub Committee to consider the complaint in accordance with the Informal Resolution Protocol. The Panel Secretariat has written to the complainant and to the subject of the complaint in advance of this Sub Committee meeting providing details about Informal Resolution. The subject of the complaint was given the opportunity to make comments in response to the complaint. The complainant was given the opportunity to make further comments in support of their original complaint should they wish to do so. Comments received from the subject of the complaint are included with this report at Appendix B. No further comments have been received from the complainant.
- 5.4 It is usual practice for the Complaints Sub Committee to meet in private session when it considers a complaint about the conduct of the PFCC. However, the issues that have given rise to this complaint have already been discussed in public and the facts of the complaint have been well publicised. The Monitoring Officer has therefore determined that it does not appear to be in the public interest for the Complaints Sub Committee to consider this complaint in private session. This reflects the nature of the current complaint and is not intended to set a precedent for the future.

6. Issues and Choices

- 6.1 The Complaints Sub Committee must use the current meeting to consider Complaint 02/2023. The Sub Committee should consider the following questions, taking into account the information relating to the complaint that has been provided to it and recognising that the Sub Committee's remit concerns complaints about the conduct of the PFCC.

Whether Complaint 02/2023 has already been resolved

- 6.2 The Complaints Sub Committee should first consider whether Complaint 02/2023 has already been satisfactorily dealt with by the time of the current meeting. If it appears to the Sub Committee that action has been taken that means the complaint has already been satisfactorily dealt with it may decide to treat the complaint as having been resolved. If this is the case the Sub Committee's reasons for reaching this conclusion will be recorded and notified to the complainant and the subject of the complaint.

6.3 In accordance with the Informal Resolution Protocol the complainant has been given the opportunity to make representations with regard to this question. No representations have been received from the complainant.

Whether the Informal Resolution process should apply to Complaint 02/2023

6.4 If the Complaints Sub Committee concludes that Complaint 02/2023 has not already been resolved it is then required to determine whether it should be subject to Informal Resolution or should be excluded from this process on grounds identified in legislation. The grounds for excluding a complaint from Informal Resolution are as follows:

- a) The complaint is concerned entirely with the conduct of the PFCC or DPFCC in relation to a member of their staff at the time when the conduct is supposed to have taken place.
- b) More than 12 months have elapsed between the incident giving rise to the complaint and the making of the complaint, and either no good reason for the delay has been shown or injustice would be likely to be caused by the delay.
- c) The matter is already the subject of a complaint.
- d) The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address.
- e) The complaint is repetitious, or is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints.

6.5 If the Sub Committee considers that a complaint should be excluded from Informal Resolution it must then determine how to deal with the matter, which may include determining to take no action in relation to it. If the Sub Committee determines to deal with a complaint other than by Informal Resolution, or to take no action in relation to it, the complainant shall be notified of this.

Informal Resolution of Complaint 02/2023

6.6 If the Complaints Sub Committee determines that Complaint 02/2023 should be subject to Informal Resolution it should then consider what action it may take to assist in clarifying or resolving the issues raised in the complaint. The Sub Committee's freedom to act is governed by the legislation. In particular, it should note that:

- a) The Sub Committee may not conduct an investigation of the matter. It may use powers delegated to it to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation and should not therefore be undertaken.

b) The Sub Committee does not have the power to overturn a decision by the person complained against, to censure them, to require them to make an apology or to issue an apology on their behalf.

6.7 In accordance with the Informal Resolution Protocol agreed by the Panel the type of action that the Sub Committee may consider taking includes:

- Agreeing that further information or an explanation of a situation be provided to the complainant by the Panel Secretariat (or on behalf of the Sub Committee);
- Recommending that further information or an explanation of a situation be provided to the complainant by a member of staff from the OPFCC;
- Recommending a change to OPFCC policy, practice or action;
- Requesting that the person complained against offers an apology to the complainant (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).

6.8 The Sub Committee should consider the timeframe within which any actions identified through Informal Resolution are to be completed. It should also consider arrangements to determine that the matter has been resolved following the completion of these actions. The Informal Resolution Protocol specifies that once recommended actions have been completed the matter may be referred back to the Sub Committee to determine that it has been resolved. Alternatively, the Sub Committee may authorise an individual (for example, the Sub Committee Chair) to determine this on its behalf. The Panel Secretariat must make a record of the outcome of Informal Resolution and provide copies to the complainant and the subject of the complaint. The matter will then be closed.

Requesting further information on Complaint 02/2023

6.9 Paragraph 6.6(a) of this report notes that the Complaints Sub Committee may require the person complained against to provide information to it, or to attend before it to answer questions, when the Sub Committee reasonably considers that this is necessary for it to carry out its functions.

6.10 Individual Sub Committee members are asked to consider the information about Complaint 02/2023 provided with this report and then to advise the Panel Secretariat as quickly as possible before the Sub Committee meeting on 8 September 2023 if they think that they need further information in order to complete consideration of the complaint at the meeting. The Panel Secretariat will aim to request this information from the OPFCC with a view to it being provided to the Sub Committee for the meeting on 8 September 2023. This approach is intended to assist the Sub Committee to complete consideration of the complaint promptly at a single meeting as far as possible, rather than needing to convene a second meeting to consider additional information that may be requested on 8 September 2023.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no specific resource or financial implications arising from the proposal. The Complaints Sub Committee operates within the overall resources available to support the Police, Fire and Crime Panel.

7.2 Legal

7.2.1 There are no specific legal implications arising from the proposal. The consideration and resolution of complaints about the conduct of the Police, Fire and Crime Commissioner is a statutory function of the Police, Fire and Crime Panel and is carried out according to set arrangements that meet the applicable requirements.

7.3 Risk

7.3.1 It is important that the Complaints Sub Committee deals with non-criminal complaints in accordance with statutory requirements and the local arrangements that the Panel has adopted for this purpose. The parameters applying to the Informal Resolution process and to the types of action that can result from it are set out in paragraphs 6.6 – 6.7 above. The Sub Committee should ensure that it has sufficient regard to these factors when considering Complaint 02/2023 so as not to risk producing an outcome that is open to challenge. The information presented in this report and advice that may be given to the Sub Committee at the meeting as necessary is intended to assist in mitigating this risk.

8. Background Papers

Police Reform and Social Responsibility Act 2011

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

Police and Crime Panel Regulations: Non-Criminal Complaints and Misconduct – Home Office Guidance

Northamptonshire Police, Fire and Crime Panel Rules of Procedure

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IOPC Online Complaint Form

| INFORMATION ABOUT WHO IS MAKING THE COMPLAINT | |
|---|----------------------|
| Are you the complainant or are you making the complaint for someone else? | I am the complainant |

| COMPLAINANT DETAILS | |
|-----------------------------|---------------|
| Title | [REDACTED] |
| First names | [REDACTED] |
| Surname | [REDACTED] |
| Date of birth | [REDACTED] |
| Preferred method of contact | Email |
| Address line 1 | [REDACTED] |
| Address line 2 | [REDACTED] |
| Town/City | [REDACTED] |
| County | Northants |
| Postcode | NN [REDACTED] |
| Email address | [REDACTED] |

| COMPLAINT DETAILS | |
|---|--|
| Which police force or organisation are you complaining about? | Northamptonshire Police |
| Force area of PCC? | |
| When did it happen? | 07/07/2023 |
| Time from | 12:00:00 |
| Time to | 17:00:00 |
| Where did the incident take place? | The date identified above is the date the first of a significant number of decisions taken by the Police Fire and Crime Commissioner of Northamptonshire that have given myself cause for concern. The PFCC appointed his "friend" as the chief fire officer without consulting with the panel, as I am led to believe should be the case. |

| COMPLAINT DETAILS | |
|--|---|
| <p>What is your complaint about?</p> | <p>Firstly I have concerns how the police force will investigate its own governor, can this be looked at independently from the outset? The PFCC claimed on a BBC TV interview that he appointed his "friend" as Chief Fire officer without going to the PFC panel, which I believe the law states the PFCC should do. The PFCC claimed that there was legal advice that meant there was no need to go to the panel, this advice has never materialised, and the PFCC subsequently then took a new appointment to the panel. I also have concerns around the person he appointed on the above date, Nicci Marzec, was also his Monitoring officer for the PFCC office. I understand this would bring questions over the suitability of that dynamic due to their friendship. The role of monitoring officer should be there to hold the elected official to account, yet he stated they are close friends. I also understand they often work out of his private business office during Police/Fire/PFCC work time. There is also speculation over a potential relationship, which would make both appointments and any subsequent decisions/accountability wholly unsuitable.</p> |
| <p>What would you like to happen as a result of your complaint? (Please select all that apply)</p> | <ul style="list-style-type: none"> • Individuals or other organisations involved to be criminally prosecuted • Police force or other organisation to apologise/acknowledge something went wrong • Other (please give details) |
| <p>You can select more than one option and/or complete the free text box below</p> | <p>I am aware of the above complaint has been across the newspapers and tv channels in the news. It has brought shame on Northamptonshire. This should be looked in to without prejudice and should the findings be that financial/ethical/legal rules have been breached, then the most robust sanctions should be placed.</p> |

| WITNESS DETAILS | |
|--|-----|
| Were there any witnesses? | Yes |
| Do you know the contact/identification details of any witnesses? | No |

OFFICER/POLICE STAFF DETAILS

| Rank | Number | First names | Last name(s) |
|------|--------|-------------|--------------|
| PFCC | NA | Stephen | Mold |

| ADDITIONAL INFORMATION |
|-------------------------------|
| |

| | |
|---|---|
| <p>Would you like to give the police or other organisation any other information?</p> | <p>I would like this to be looked at outside of Northamptonshire police, this is a complaint about the governor of the police and fire, i understand the conflict of interest created if not looked at independently.</p> |
|---|---|

ADJUSTMENTS

EQUALITY INFORMATION

| | |
|--|------------|
| Gender | [REDACTED] |
| Is your sex different to the sex you were assigned at birth? | [REDACTED] |
| Sexual orientation | [REDACTED] |
| Do you have a physical or mental impairment that has a substantially adverse and long-term effect on your ability to carry out normal day-to-day activities? | [REDACTED] |
| Ethnicity | [REDACTED] |
| Religious belief/faith: | [REDACTED] |

FEEDBACK

| | |
|---|----|
| I would be happy to be contacted about my experience of the police complaints system. | No |
|---|----|

CONFIRMATION AND COMPLETION

| | |
|---|--|
| I confirm I agree that the information provided in this form will be used by public bodies involved in the police complaints system, including the police and IOPC. | The information provided in this form will be used by public bodies involved in the police complaints system, including the police and IOPC. |
| Date/Time of submission | Mon, Jul 31, 2023 2:49 pm |

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NORTHAMPTONSHIRE
POLICE, FIRE & CRIME
COMMISSIONER

Stephen Mold

Darby House, Darby Close,
Park Farm Industrial Estate,
Wellingborough, NN8 6GS

James Edmunds
Assistant Manager - Democratic Services
West Northamptonshire Council
One Angel Square
Angel Street
Northampton
NN1 1ED

29/08/2023

Informal Resolution of a Non-Criminal complaint against the Police, Fire & Crime Commissioner for Northamptonshire, reference 02/2023, - Response from PFCC Stephen Mold

Dear James,

Further to your letter dated 22nd August 2023 in relation to the non-criminal complaint against the Police, Fire & Crime Commissioner for Northamptonshire reference 02/2023, I would like to formally respond to the issues raised by the complainant.

In the complaint there are four key areas about which the complainant wishes to complain (I have paraphrased them):

- How the police force will investigate its own 'governor'
- Appointment without going to the PFC Panel
- Relationship between PFCC and Ms Marzec
- Working from PFCC's business premises

I will take each of the matters in turn in my response.

How the police force will investigate its own 'governor'

The rules and process for handling complaints about a PCC are clear and the police force, in this case Northamptonshire Police, are not involved in this process. The complainant has raised the issue with the Independent Office for Police Conduct (IOPC) who have passed it back to you as the Police Fire and Crime Panel ('the Panel') as an independent body to deal with.



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Stephen Mold

Darby House, Darby Close,
Park Farm Industrial Estate,
Wellingborough, NN8 6GS

Appointment without going to the PFC Panel

As has been the subject of much discussion I have a duty to follow a confirmation process for a substantive Chief Fire Officer (CFO). The legislation does not, however, reference temporary arrangements. This is the key issue in question here.

Following the departure of Mr Mark Jones, the previous substantive CFO I needed to ensure that arrangements were put in place until such time as I was able to recruit a new CFO. At the time advice was sought from the East Midlands regional legal services team and I was advised that the confirmation hearing process did not apply in this case. Following this advice, I took the decision to appoint the Chief Executive and Monitoring Officer for the OPFCC into the role on a temporary basis.

Separately the Monitoring Officer for the Panel also sought advice on the matter and the advice they received differed from that which I had received and suggested that a confirmation hearing process should be followed.

In light of this contrary view it should be noted that for both the appointments of Simon Tuhill as Acting CFO, and David Peet as Interim Chief Executive and Monitoring Officer of my office have both been through a confirmation hearing process.

As there were differing legal views, and different practices in other areas, I wrote to the Home Office to seek further guidance from them. In his response, Rt Hon Chris Philip MP (Minister of State for Crime, Policing and Fire) stated:

“Although there are no provisions for interim arrangements in the legislation, the expectation is that appointments would also be referred to the panel when making an interim appointment, as has been the case in other areas.”

As you can see the Minister has confirmed that there are no provisions for interim arrangements, and whilst he goes on to suggest that referral have been made in other areas, this has not been the case everywhere. As a result of this clarification I will be sharing the Minister’s view with the Association of Police and Crime Commissioners to ensure that other PCCs or PFCC operate in line with this view.

I would also point out that despite the approach I took, based on the advice I had at the time, I did contact the Chairman of the Police, Fire and Crime Panel, Cllr. David Smith before the formal communication was sent out to staff and hours before the media release. I also tried to organise a briefing for Panel members in the week commencing July 10, which was initially confirmed in the diary, but that date was cancelled.



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I therefore suggest that whilst with the benefit of hindsight it might have been more appropriate to follow the process for the appointment of a substantive CFO, my appointment of Ms Marzec into the role was legitimate.

There is also a reference to the legal advice never materialising. I have attached at Appendix 1 of this response a copy of the email exchange in which the advice was given, and decisions were based.

Relationship between PFCC and Ms Marzec

As PFCC I work to a code of conduct. Part of this relates to relationships between myself and others.

I have always been very clear about the fact that Ms Marzec and I are friends, but that our relationship is not one that could be described a 'close personal relationship'. I am aware that there have been suggestions made in the media that I am in a relationship with Ms Marzec, this is quite simply not the case.

Every year, as part of the annual audit process, I am required to complete a statement on related parties. This is also a requirement for the Chief Executive. Every year this has been completed and submitted this to the Chief Finance Officer/Section 151 Officer.

The complainant also raises the specific issue of Monitoring Officer arrangements. Appendix 2 shows an email exchange where this issue was raised and systems were put in place to ensure clarity of roles and responsibilities.

Working from PFCC's business premises

The issue here for the complainant is the fact that Ms Marzec had worked, on occasion, from the premises of a separate business that I own and run. Again, I have been open and transparent about my ownership of a business outside of my role as PFCC. My role as PFCC allows me to work in an agile way and there are times when I will have based myself in my business premises. (This has increased post-covid.) At times Ms Marzec would also work out of this office space. This is, in my opinion, akin to us both working at a coffee shop or shared office facility. All work was undertaken on OPFCC (Force) equipment and using the secure police Virtual Private Network.



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This entire situation has been challenging for both me and Ms Marzec. There has been learning from it, as evidenced in the process followed for the appointment of the interims from both the CFO and Chief Executive following Ms Marzec's departure.

I remain committed to ensuring that I discharge my responsibilities and duties in line with all relevant legislation. I hope that my record of investment in and support for Northamptonshire Fire and Rescue Service and Northamptonshire Police and the safety of the people of this county will speak for itself. I have only ever worked to create the conditions where firefighters and police officers can give their best for the county. My responsibility is to appoint the leaders of Northamptonshire Fire and Rescue Service and Northamptonshire Police, with your help. I hope that the facts set out in this response explain how that happened on this occasion.

Yours sincerely

A handwritten signature in blue ink, reading "Stephen Mold".

Stephen Mold

From: Marzec Nicci <Nicci.Marzec@northantspfcc.gov.uk>

Sent: 27 June 2023 17:03

To: [REDACTED]

Subject: Restricted: NFRS - Interim Management Arrangements

Hi [REDACTED]

[REDACTED]

We are now in the process of putting interim management arrangements for the service post his departure which will effectively see me take on the responsibility of Head of Paid Service for NFRS in addition to my current responsibilities as Head of Paid Service for the OPFCC and Monitoring Officer for the OPFCC and NFRS. Then, within the service I will delegate the operational fire responsibilities for on call and emergency response cover to the DCFO who will start in post on 17 July and the two ACFOs who are already in post.

It is our understanding, based on the advice that [REDACTED] gave us previously when we were undertaking the abatement of the Chief Constable's pension, that as my role will be interim for up to 12 months and I am already employed by the Commissioner there is no requirement to hold a Panel confirmation hearing. [REDACTED] had advised that, had Paul Gibson been DCC in Northants he could have been temped up without having hold a Panel hearing, but as he was seconded from another Force it was his advice that we would have to – happy to forward that to you if that helps.

In addition, when I was appointed to the role of HoPS and MO I was subject to a Panel confirmation hearing at that time and as I am already the MO for Fire and will just be assuming the HoPS responsibilities in addition that we should not need to replicate that process again. We will of course advise the Panel of the proposed changes and the rationale for putting interim arrangements in place and not proceeding at this point to recruitment. The rationale includes the need to stabilise and reset the organisation, the imminent inspection and the proximity to the next election and the preference not to make a permanent appointment immediately before the election, hence the 12 months which would take us just beyond.

We are also working on the basis that as I am already MO for both that is not an issue and we will, for the duration, temporarily suspend my delegated authority to authorise expenditure without PFCC counter signature for matters relating to Fire to ensure there is appropriate oversight and challenge.

If you could confirm in relation to the Panel process that would be really helpful, noting however, that given the need to put arrangements in place at speed any confirmation hearing if required would be retrospective in any event.

Thanks

Nicci

Nicci Marzec

Head of Paid Service, Monitoring Officer and Director for Early Intervention

Telephone [REDACTED]

- 📍 Address [Office of the Police, Fire and Crime Commissioner, Darby House, Darby Close, Wellingborough, NN8 6GS](#)
- ✉ E-mail nicci.marzec@northantspfcc.gov.uk
- 🌐 Web www.northantspfcc.org.uk

From: [REDACTED]
Sent: 27 June 2023 19:24
To: Marzec Nicci <Nicci.Marzec@northantspfcc.gov.uk>
Subject: RE: Restricted: NFRS - Interim Management Arrangements

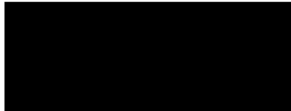
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Nicci

I am pleased to hear that talks are progressing, which should produce a better outcome for all concerned.

In terms of your role, I would confirm that, if you are simply acting as Head of Paid Staff on an interim basis pending the appointment of a permanent Head, then it should not be necessary for you to have to undergo a confirmation hearing. That is because you will be appointed to act as rather than to be the Head.

Regards



Head of Legal Services

East Midlands Police Legal Services

Based at the Ripley Office: Derbyshire Constabulary, Constabulary Headquarters, Butterley Hall, Ripley, Derbyshire DE5 3RS

External Extension: [REDACTED]

Internal Extension: [REDACTED]

General Office: 0300 122 5550

E-mail: [REDACTED]

Please Note

I may not be able to check my inbox regularly due to other commitments. If you require urgent contact please get in touch with our Admin Team on 0300 122 5550.

I may send emails outside office hours at times that are convenient for me. I do not expect you to read or respond outside of your normal working hours.

From: Marzec Nicci <Nicci.Marzec@northantspfcc.gov.uk>
Sent: 28 June 2023 15:46
To: [REDACTED]
Subject: RE: Restricted: NFRS - Interim Management Arrangements

Thanks [REDACTED]

Can you also just confirm you can see no issue with the proposed MO arrangements continuing, with the caveat that any expenditure relating to Fire during this period will be signed off by both statutory officers and the PFCC.

Nicci

From: [REDACTED] <[REDACTED]>
Sent: 28 June 2023 16:04
To: Marzec Nicci <Nicci.Marzec@northantspfcc.gov.uk>
Subject: RE: Restricted: NFRS - Interim Management Arrangements

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Nicci

I don't, given the safeguards which will be in place.

Regards

[REDACTED]

[REDACTED]

Head of Legal Services

East Midlands Police Legal Services

Based at the Ripley Office: Derbyshire Constabulary, Constabulary Headquarters, Butterley Hall, Ripley, Derbyshire DE5 3RS

External Extension: [REDACTED]

Internal Extension: [REDACTED]

General Office: 0300 122 5550

E-mail: [REDACTED]

From: Marzec Nicci <Nicci.Marzec@northantspfcc.gov.uk>
Sent: 28 June 2023 16:09
To: Mold Stephen [REDACTED]; King Helen [REDACTED]
Subject: FW: Restricted: NFRS - Interim Management Arrangements

See below – he doesn't have a problem with the MO arrangement with the safeguard we will have in place around signing.

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