

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 OFPCC 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.

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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