



NORTHAMPTONSHIRE
POLICE, FIRE & CRIME
COMMISSIONER

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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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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, reading "Stephen Mold". The signature is fluid and cursive.

Stephen Mold