

# Agenda

## Ethical Standards Sub Committee

**Friday, 16 December 2022 at 11.00 am**  
**In the Council Chamber - Sandwell Council House, Oldbury**

**1 Election of Chair for the Meeting**

**2 Apologies for Absence**

**3 Declarations of Interest**

Members to declare any interests in matters to be discussed at the meeting.

**4 Request to consider a Standards Complaint (MC280222)**

5 - 76

To consider a request to review a complaint received against an elected member.



**Kim Bromley-Derry CBE DL**  
**Managing Director Commissioner**

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West Midlands

**Distribution**

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## Report to Ethical Standards Sub Committee

16 December 2022

<b>Subject:</b>	Standards Complaint (MC280222)
<b>Director:</b>	Surjit Tour Director of Law and Governance & Monitoring Officer

### 1 Recommendations







- 1.1 That the Panel considers the complaint and investigation report into the alleged breach of the Members' Code of Conduct by Cllr Steve Melia in accordance with the Council's Arrangements for dealing with complaints against Elected Members.

### 2 Reasons for Recommendations

- 2.1 The Panel has been convened to deal with a standards matter in accordance with the Council's Arrangements for dealing with complaints against Elected Members.



### 3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people
	People live well and age well
	Strong resilient communities
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell

### 4 Context and Key Issues

- 4.1 A complaint of Member misconduct was referred to the Monitoring Officer on 28 February 2022. The Monitoring Officer referred the complaint for external investigation.
- 4.2 The complaint relates to the conduct of Councillor Steve Melia.
- 4.3 The allegations related to an incident that took place on 7 December 2021 prior to Full Council involving Cllr Melia and the complainant, Mr Julian Saunders. Cllr Melia was alleged to have assaulted the complainant.
- 4.4 Criminal proceedings were commenced by the Crown Prosecution Service. Cllr Melia pleaded guilty to assaulting the complainant and was sentenced at Dudley Magistrates Court to 12 months conditional discharge and ordered to pay £130 legal costs and £200 compensation.
- 4.5. Pursuant to the provisions of the Localism Act 2011, the Council has put in place “arrangements” under which allegations that a Member or



co-opted Member of the authority has failed to comply with the authority's Code of Conduct (see Appendices No.3).

4.6 Following receipt of the complaint, the Monitoring Officer determined that the matter warranted detailed consideration and referred the matter for investigation as he concluded the matter met the three stages of the assessment that justified an investigation being undertaken.

4.7 The complaint alleged conduct which, if proven, could constitute a breach under the Members' Code of Conduct of the following:

**Rule 1.1.1** I treat other councillors and members of the public with respect.

**As a councillor:**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor/officer protocol.

**Rule 5.1** I do not bring my role or local authority into disrepute



As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

- 4.8 An external investigator was initially appointed but due to objections from the complainant another external investigator was required to be found. Miranda Carruthers-Watt, a consultant, appointed through Hoey Ainscough Associates Ltd was appointed on 21 July 2021.
- 4.9 Before the final report was completed, Cllr Melia and the complainant were afforded the opportunity to make comments on the draft investigation report in accordance with the Council's Arrangements for dealing with complaints.
- 4.10 Cllr Melia did not make any comments on the draft report save "that there were mitigating circumstances which brought about the occasion".
- 4.11 The Complainant however raised an issue over the claims made by Cllr Melia with regards to whether an apology was given by Cllr Melia. The investigator was asked to consider this matter. After consideration of this discreet issue, the investigator amended the investigation report to summarise the position advanced by Cllr Melia and the complainant on the issue.





- 4.12 The Monitoring Officer sought clarification from Cllr Melia on the issue of the apology and Cllr Melia provided a written apology that he maintains was sent to the complainant (see Appendices No.4). Cllr Melia was not able to locate the covering email sent to the Complainant in which the aforementioned written apology was an attachment.
- 4.13 As the matter of the apology remains an issue of conflict between the parties, the Monitoring Officer concluded that the issue of whether an apology was given should be a matter for the Standards Panel to determine once it had determined whether or not Cllr Melia was in breach of the Members' Code of Conduct. The Panel will need to consider whether it wishes to hear from Cllr Melia and the Complainant on this specific issue.
- 4.14 The investigation report was finalised and provided to the Monitoring officer on 8 November 2022. The investigator has concluded that Cllr Melia breached both paragraphs 1.1.1 and 5.1 of the Members' Code of Conduct (ante).
- 4.15 The Investigation Report and Supporting Evidence are set out in the Appendices to this report.

### **Options available to the Sub-Committee**

- 5.1. Determine that the Members' Code of Conduct has not been breached.
- 5.2. Determine that the Member's Code of Conduct was breached and consider appropriate sanctions which can include:
- a) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that the subject member be removed from any or all Committees or Sub Committees of the Council;
  - b) Instruct the Monitoring Officer to arrange training for the member;



- c) Recommend to Council to remove from all outside appointments to which the member has been appointed or nominated by the authority;
- d) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
- e) Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- f) Recommend to the Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion.
- g) Instruct the Monitoring Officer to apply the informal resolution process.
- h) Recommend the Council to issue a press release or other form of publicity.
- i) Recommend that the subject member makes an apology at the next full Council meeting.
- j) Take such steps as appropriate, reasonable and proportionate to the particular conduct that amounted to the breach of the code of conduct.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## 6. **Assessment Criteria**

6.1. The Panel may wish to consider the following questions:

- (a) Are you satisfied that the Member was acting in his official capacity?



- (b) Does the evidence support a breach of the Members' Code of Conduct as alleged?

## 7 Alternative Options

- 7.1 The Monitoring Officer has given consideration to whether this matter should be dealt with by Local Resolution as permitted under the Arrangements. The Monitoring Officer has concluded that in view of the circumstances giving rise to the complaint, it is appropriate for the matter to be considered by the Standards Panel.

## 8. Appendices

1. Report of an investigation into a complaint made by Mr Julian Saunders about the conduct of Councillor Stephen Roy Melia of Sandwell Council.
2. Members' Code of Conduct.
3. Arrangements for dealing with standards allegations under the Localism Act 2011.
4. Written apology Councillor Melia dated 9 December 2021.
5. Email from the Complainant dated 28 November 2022
6. Sandwell Council CCTV clips:
7. You tube video <https://www.youtube.com/watch?v=G2jipZzdwrC>
8. Newspaper and Media Reports  
<https://www.expressandstar.com/news/politics/elections-2022/2022/05/06/councillor-who-admitted-beating-charge-re-selected-in-sandwell/>  
<https://www.birminghammail.co.uk/black-country/councillor-guilty-assault-speaks-first-23626282>



[https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int\\_source=mantis\\_rec&int\\_medium=web&int\\_campaign=more like this](https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int_source=mantis_rec&int_medium=web&int_campaign=more_like_this)

<https://www.halesowennews.co.uk/news/19914370.councillor-given-conditional-discharge-damaging-bloggers-phone/>

<https://www.expressandstar.com/news/local-hubs/sandwell/2022/02/11/sandwell-councillor-may-hang-on-to-seat-despite-assaulting-blogger/>

<https://www.localgovernmentlawyer.co.uk/employment/395-employment-news/47683-senior-council-officer-fails-in-harassment-claim-against-local-blogger>

<https://www.lawgazette.co.uk/law/retired-solicitor-sees-off-harassment-claim-over-puerile-blog/5109277.article>

## 8. Background Papers

N/a



**REPORT OF AN INVESTIGATION INTO A COMPLAINT MADE  
BY MR JULIAN SAUNDERS ABOUT THE CONDUCT OF  
COUNCILLOR STEPHEN ROY MELIA OF SANDWELL  
BOROUGH COUNCIL**

Investigating Officer: Miranda Carruthers-Watt

Date of report: 13 September 2022

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## SECTION 1 INTRODUCTION

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### 1.1 DETAILS OF THE ALLEGATION

I was asked by the Monitoring Officer of Sandwell Council to investigate a formal complaint submitted by Mr. Julian Saunders against Cllr Melia. The formal complaint is that:

On 7 December 2021 prior to full council the Subject Member, Cllr Steve Melia assaulted the complainant Mr. Julian Saunders, he pleaded guilty of this offence and was convicted of assault by beating on 10 February 2022. Mr. Saunders alleged that this was a breach of the Members Code of Conduct.

Mr. Saunders has asked that, if his complaint is upheld, the strongest possible sanctions permitted in law should be considered.

### 1.2 THE DECISION TO REFER THE COMPLAINT FOR INVESTIGATION

The incident referred to in the complaint, was reported to West Midlands Police. Cllr Melia, the Subject Member, pleaded guilty to the offence of assault on 28 February 2022. Whilst a criminal investigation has taken place, this did not consider whether there was a breach of the Members' Code of Conduct. It was determined by the Monitoring Officer that there should be an independent investigation and the Monitoring Officer's decision was conveyed to both the Subject Member and the Complainant by a decision notice dated 13 June 2022.

### 1.3 ACTION TAKEN FOLLOWING THE DECISION TO REFER THE COMPLAINT FOR INVESTIGATION

Following discussions between the Deputy Monitoring Officer and Hoey Ainscough Associates Ltd who are providing support to the Council in respect of a number of matters, I was contacted by the Council to undertake an independent investigation of the complaint. I am a Freelance Solicitor, a retired Monitoring Officer and provide consultancy support on Governance and other matters to a number of public sector bodies. I was appointed to conduct an independent investigation of the complaint on 21st July 2022.

I should like to thank the Authority for making available to me all of the information I sought and also in providing me with the services of Mr Peter Norgrove to assist with interviews and other arrangements. Mr Norgrove's support has been invaluable throughout.

I contacted Mr Saunders directly and my correspondence with him has been by email. I have offered to speak directly to Mr Saunders but he has confirmed he is content to proceed on the basis of written correspondence. I should like to thank Mr Saunders for providing me with considerable background information as well as his own recordings of the event which is the subject of the complaint.

### 1.4 THE COUNCILLOR'S INITIAL RESPONSE TO NOTIFICATION OF THE ALLEGATION

Cllr Melia accepts that he knocked the phone out of Mr Saunders' hand. He holds strong views that Mr Saunders' actions were provocation and that Mr Saunders has been attending the premises of Sandwell Council on a regular basis in advance of Council Meetings and using a megaphone to accuse the Council

and its Members of being corrupt. Cllr Melia told me that he was advised that his actions amounted to a S36 Assault as charged and that he should enter a Guilty Plea.

Cllr Melia pleaded guilty to the charge. He was given a 12 month conditional discharge, ordered to pay £200 in compensation and £130 in costs as a result of the court case.

I asked Cllr Melia if he would be prepared to apologise to Mr Saunders. Cllr Melia says that he has already apologised. It is not clear if that was an apology to the complainant or a general apology made for his behaviour.

## SECTION 2 - RELEVANT PROVISIONS OF STATUTE, THE CODE OF CONDUCT AND ANY RELEVANT LOCAL PROTOCOLS

### 2.1 THE LOCALISM ACT 2011

The investigation is carried out under arrangements made to comply with sections 28(6) and (7) of the Localism Act 2011. The Council's arrangements are documented as Sandwell MBC "Arrangements for dealing with standards allegations under the Localism Act 2011".

### 2.2 THE SANDWELL MBC MEMBER CODE OF CONDUCT

The Complaint relates to an alleged breach of the Sandwell MBC Member Code of Conduct. The Code of Conduct has been adopted by Sandwell MBC pursuant to Section 27 of the Localism Act 2011.

The Code of Conduct applies to members of the Council when they are acting in the capacity of member or as a representative of the authority. The Monitoring Officer, in consultation with the Independent Person, was satisfied that this and the public interest test, as to whether the complaint could be dealt with under the Council's Arrangements, had been satisfied. The Monitoring Officer conveyed this information to the Subject Member and to the Complainant in a Decision Notice dated 13 June 2022.

### 2.3 ASSESSMENT CRITERIA

So far as the assessment criteria are concerned, the Monitoring Officer has determined that the Subject Member was a member of Council at the time of the alleged conduct. He has further determined that he was acting in an official capacity at the time.

The Monitoring Officer further determined that If the facts could be established as a matter of evidence, then the alleged conduct would be capable of constituting a breach of the Code of Conduct in force at the material time.

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**Rule 5.1 I do not bring my role or local authority into disrepute**

The Monitoring Officer has considered allegations and relation to allegation 2, whilst it is recognised that Elected Members have a right to not be subjected to abusive, threatening or intimidatory behaviour, the Subject Member pleaded guilty to an offence of assault and as such the Monitoring Officer was of the view that the threshold is met.

The Council's Independent Person agreed with the Monitoring Officer's view and I also concur that the assessment criteria are fulfilled in this case.

## SECTION 3 - THE INVESTIGATION

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### 3.1 THE INVESTIGATION PROCESS

I began the investigation by making an initial plan of individuals to interview and the information to be sought from them, based on introductory discussions with the Deputy Monitoring Officer and the Senior Information Governance and Investigations Officer. I contacted the Black Country Magistrates Court and arranged for a Certificate of Conviction to be obtained by the Council. I viewed CCTV footage from the Council and also the Phone Camera footage on the Complainant's Blog. With the assistance of Mr Norgrove, I arranged interviews with Cllr Melia, I reviewed extensive correspondence from the Complainant and from a witness to the event, Darryl Magher. At Mr Saunders's request I interviewed two other Councillors, Cllr Luke Giles and Cllr Sukbir Singh Gill.

I identified a number of press reports of the incident and the subsequent prosecution which are highlighted in Appendix 1. This is not a completely exhaustive list of all of the media coverage but is a representative selection. It is clear that coverage was not limited to Sandwell but was widely reported in the West Midlands. Interviews were held over Microsoft Teams and recording made of those interviews. I have reviewed the transcripts of these interviews. I have not made further witness statements as the transcripts are with the Council. I will destroy my copies of these recordings once my report is submitted to the Monitoring Officer.

Mr Saunders sent me extensive correspondence, recordings from a number of Council Meetings, a link to his blog and the footage he shot of the incident as well as his witness statement to the police in respect of the criminal proceedings. He raised a number of concerns regarding use of the Council's Teams software. He was sceptical that the investigation would be fair and independent and expressed concern that there would be attempts to amend or alter any information he provided if the Council's

systems were used. He confirmed that he did not want a further face to face or virtual interview but felt he had provided sufficient information to enable me to form a view. Not all of this information was relevant to this particular investigation.

I have asked Mr Saunders what, in his view, would be an appropriate sanction, should it be determined that Cllr Melia has breached the code of conduct. Mr Saunders has responded to say that whilst he acknowledges that the sanctions in standards cases are “incredibly weak”. He did not specify what particular sanction he thought acceptable but he expressed the view that the maximum sanction is required here for a criminal assault on a journalist. He goes on to say that Cllr Melia is a very long serving Cllr who should know how to control himself.

### 3.2 BACKGROUND

There is considerable history between the Council and Mr Saunders, a Citizen Journalist and Blogger. Whilst the investigation focussed on the facts of the Complaint, it is necessary to understand some of the background properly to consider the question of mitigation. Mr Saunders has, since 2013, been the principal author of a blog called, “In the Public Domain” but more popularly known as “The Sandwell Skidder”. Mr Saunders confirmed that he has, since 2014, regularly attended outside Oldbury Council House before full Council meetings, in his words “to fire questions at Councillors”. He says that a number of other groups have also started to demonstrate – often on specific issues.

Mr Saunders believes there to be evidence of corrupt behaviours at Sandwell Council and he has published extensive material on his blog and on YouTube supporting his view. I have logged into the YouTube channels on the links that MR Saunders provided and have viewed Councillors engaging with Mr Saunders on a number of matters.<sup>1</sup>

Mr Saunders describes Cllr Melia as “*a rarity in that he was one of the few Labour Councillors prepared to stop and talk to me. He is an ignorant and opinionated man and so good “value” for The Skidder news service.*” He also says that Cllr Melia was used to talking to Mr Saunders and also being filmed.

He referred to a number of You Tube videos which I have reviewed. They do indeed show Cllr Melia answering questions but also show Cllr Melia asking if recordings were being made and then declining to answer further questions.

Mr Saunders has indicated that he stands near the CCTV for his own protection, and gave information about past incidents where he has been subjected to considerable abuse by Councillors, including one of egg throwing.

Mr Saunders provided an email from Darryl Magher, with information that 2 other Councillors were involved in the aftermath of the incident. I interviewed the two councillors, Cllr Luke Gill and Cllr Sukbir Singh Gill. They are both Labour Councillors who know the subject member well. Cllr Gill recalls that he was behind Cllr Melia and said that he saw people shouting at Cllr Melia, so he intervened to get between Cllr Melia and the other person (Mr Saunders) and he was joined by Cllr Giles who helped usher Cllr Melia into the Council building. Cllr Giles says he was inside the link part of the Council

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<sup>1</sup> YouTube via the channels *terminustrading and OCH Encounters*.

building, heard a commotion and came out to see if he could help. Both Councillors describe Cllr Melia as upset and shaken by the incident when he was helped into the Chamber.

### 3.3 ADVICE

No advice has either been requested or received by myself during the investigation.

## SECTION 4 - FINDINGS

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### 4.1 PURPOSE OF INVESTIGATION

The purpose of the investigation is set out in the Terms of Reference and is as follows:

- Undertake an investigation, in accordance with the council's arrangements for dealing with standards allegations and establish Cllr Melia's comments in relation to the event, along with any mitigating factors.
- To ascertain what occurred immediately prior to the meeting of full council on 7 December 2021.
- To establish whether any incidents had occurred prior to the meeting on 7 December 2021 which contributed to the incident occurring on 7 December 2021.
- Establish the subject member's level of understanding of the members' code of conduct and any training or guidance that he has had to assist him to deal with difficult situations and members of the public.
- To gather and consider the information produced in the criminal conviction.
- Determine which if any of the provisions of the Code of Conduct are engaged and whether Cllr Melia has breached any of those provisions by reason of the findings made above.
- Whether the conduct of Cllr Melia in this matter amounted to a breach of any of the provisions on the code.

The investigation has obtained and taken account of the Certificate of Conviction. I have also had the opportunity to read the statement that Mr. Saunders gave to West Midlands Police. Cllr Melia was convicted on the 10<sup>th</sup> February 2022. The Court proceedings were widely reported in the local press. Links to a number of press reports are included at Appendix 1.

Cllr Melia has admitted knocking the complainant's phone out of his hand. He was convicted of an offence under S39 Criminal Justice Act 1988. He was given a conditional discharge for 12 months, He was ordered to pay £200 compensation to Mr. Saunders and £120 towards the CPS costs. On the day of the incident, Cllr Melia parked his car, preparatory to attending a Council Meeting. He was walking across the Car Park into the Council Building when the incident occurred.

Mr. Saunders is a Citizen Journalist who publishes a Blog which is critical of and hostile to the Council and a number of Officers and Members who are referred to in person. Mr. Saunders has confirmed on his Blog and other posts that he has for some years been attending the premises of the Council, prior to Council meetings and has used this opportunity to accuse the Council and its members and some officers of "cronyism and corruption." There is a significant history of antipathy between the Council and

Mr. Saunders and there have been well publicised incidents and court proceedings which have maintained and extended that hostility.

There is a clear expectation within the Code of Conduct that Members treat other Members, Officers of the Council and Members of the Public with respect. In this context, it is accepted that “Respect” means politeness and courtesy in behaviour, speech, and in the written word. Whilst a difference in views is expected. It is further expected that any disagreement and challenge is expressed in a manner that is both civil and robust. It is also universally acknowledged that individuals, groups of people or organisations should not be the subject of personal attack whether that is on line, in the debating chamber or in person. Members are advised that members of the public should be treated politely and with courtesy. There is little doubt the Councillor Melia’s actions fell short of this requirement.

Members, are however entitled to expect a similar level of respectful behaviour from members of the public. Whilst Article 10 protects Freedom of Expression, Councillors are not expected to engage with people who are being abusive, intimidating or threatening and where necessary they should report this to their Local Authority, any social media provider or the police. In the circumstances of this case, it is clear that the Deputy District Judge had some sympathy with Cllr Melia. DDJ Bal Dhaliwal considered that Cllr Melia reacted “in the heat of the moment.” She is reported as making the following comments in the Birmingham Mail.

"On this particular occasion, it's clear and, in my view, unfortunate, that certain remarks were being made to you. “Your actions went well beyond what would have been acceptable.”

The judge added: "There is also no justification, in my view, for you to have to listen to the comments that were being made in this particular situation."<sup>2</sup>

Mr Saunders believes that the Judge was wrong to make these comments and that she did not have the context of the matter fully before her.

## 4.2 AGGRAVATING OR MITIGATING FACTORS

It has been held in the Courts that senior public officials should be open to scrutiny and criticism and the law provides that the limits of acceptable criticism are wider than for private individuals.

Mr Saunders, can be heard in the video saying to councillors: *“Back to the future? More corruption? More cronyism? More incompetence?”*

Cllr Melia was filmed walking past, then pointing a finger at Mr Saunders before knocking the phone from his hand. Both parties agree that Cllr Melia told Mr Saunders not to film and Mr Saunders responded that it was a public place and continued to film Members on his phone.

Both parties also agree that Mr Saunders frequently uses his Blog platform to level significant criticism at the Council. There is clearly an acrimonious relationship between the parties.

During the course of this investigation, Mr Saunders has made reference to his expectation that the Terms of Reference have included a requirement that he is to be “stitched up.” I can categorically state that the only instructions I have received are the terms of reference for the Investigation which were

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<sup>2</sup> [Sandwell councillor pleads guilty to assault filmed on phone - Birmingham Live \(birminghammail.co.uk\)](https://www.birminghammail.co.uk/news/local-news/sandwell-councillor-pleads-guilty-to-assault-filmed-on-phone-11111111)

shared with both Cllr Melia and Mr Saunders. At no time has there been any hint of improper conduct from any of the Councillors or Officers. I have not interviewed or spoken with the Monitoring Officer. I have spoken with the Deputy Monitoring Officer to indicate the scope and extent of my investigation.

Cllr Melia and other Councillors have described Mr Saunders' approach as intimidating. Cllr Melia says that being called corrupt for him is a painful insult. He denies any corruption and is clearly affronted by what he believes to have been a personal attack. Cllr Melia describes the event which is the subject of this complaint as having been triggered by Mr Saunders' use of the phrase "corrupt" when he felt it to be directed at him and also indicated that he wanted Mr Saunders to stop filming. Cllr Melia repeatedly asks whether Mr Saunders has asked permission to film him. He is not heard asking Mr Saunders to stop but can clearly be seen to strike at the Mobile phone Mr Saunders is holding.

Cllr Melia says he was alone at the time of the incident and that he was intimidated by Mr Saunders and the unrelated demonstrators who were present. He goes on to say that he has received a great deal of support from members of the public who find some of the comments and language used by Mr Saunders unacceptable. Cllr Melia is a longstanding member of the Labour Party and it is likely that many of his friends and supporters would not support the views that Mr Saunders expresses about the Council. He also says that he received a lot of supportive letters and messages about his actions and it is the case that he was re-elected to the Council in May of 2021, some 3 months after the Court Hearing.

#### 4.3 EXPERIENCE AND TRAINING

Cllr Melia is a very experienced councillor, having served the Council, in his own words, "on and off" since 1984. He has attended Member Training on the code of conduct and he understands the need for a degree of latitude about what is said about elected members.

The Council has an extensive Member Training programme and the Councillors I have spoken to reference the training which they have received on the Code of Conduct.

## SECTION 5 CONCLUSIONS

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### 5.1 ALLEGATION

In relation to the complaint that Cllr Melia struck a mobile phone from Mr Saunders hand. This has been accepted and the conviction in the magistrates' court following Cllr Melia's guilty plea is noted.

In the code of conduct is clearly stated that "when acting in your capacity as a member, you must not bring your office or your Authority into disrepute."

### 5.2 CAPACITY

Under section 27(1) of the Localism Act 2011 a "relevant authority" (which includes Sandwell MBC) is placed under a statutory duty to "promote and maintain high standards of conduct by members and co-opted members of the authority". Under section 27(2) a relevant authority "must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity". This narrowed the remit of the previous national Code of

Conduct which previously applied not only when a member was acting in their capacity as a councillor but also when they were purporting to do so.

This means that Sandwell MBC (as with other councils) can only investigate matters where a member was acting as a councillor at the time of the alleged incident. It is necessary therefore to consider the allegation against that definition, setting out my understanding of the general statutory position.

In offering views on this it is acknowledged that the Localism Act is vague on the key point of what acting in ‘official capacity’ involves nor has Government published any guidance on interpretation and there is no case law arising from the Localism Act to assist us on this. What we do have however is well established case law from earlier hearings under the old national framework which still applies as well as guidance published by the Local Government Association with regard to their 2020 Model Code.

What is clear is that the Government’s intention was that the law should not seek to regulate what members do purely in their private and personal lives. The Localism Act therefore only applied the Code to members when conducting Council business or when carrying out their constituency work or acting as a representative of the authority. A distinction must be drawn between the individual as a councillor and the individual as an individual; a councillor is not a councillor twenty-four hours a day. Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the Code; a link to that person’s membership of their authority and specifically their role as a councillor is needed.

While some activities will clearly have no link with the Council – for example, a purely domestic matter or something which the member may do while employed in work completely unrelated to the Council – there is a greyer area around public pronouncements and postings on social media, for example, as the councillor may well be a well-known figure associated with the Council and may be making statements which could be broadly regarded as political in nature or pronouncements on matters of local public interest or council business.

Cases have made clear that being known as a councillor is not sufficient to engage the Code of Conduct unless the context (and not simply the alleged behaviour) is such as to bring the individual within the ambit of the Code.

In the standards case of “Livingstone v The Adjudication Panel for England [2006]” Mr Justice Collins considered the question of official capacity. On the facts of that case, Collins J found that then-Mayor Livingstone’s offensive comments to a journalist were not sufficiently connected to his position as Mayor as to engage the Code of Conduct. He also rejected the finding of an earlier Tribunal that Mayor Livingstone’s conduct had brought his office into disrepute on the basis that it was important to maintain the distinction between the man and his office, even in the case of high-profile individuals. In his written judgement he made it clear that a distinction must be drawn between the individual as a councillor and the individual as an individual; a councillor is not a councillor twenty-four hours a day.

Also pertinent is the decision of the Adjudication Panel for England in APE0458 *Sharratt*, in which the tribunal observed

*“The dedication of many councillors to activities in public life means that often their social and professional lives are shaped by their roles as councillors and in turn shape how they approach those activities. However while they may always be conscious of their office as councillor and carry out a wide range of activities in which that is a factor in their thinking, no reasonable observer would conclude that*

*they are carrying out the business of the office of councillor; a test which, in the light of the decision in Livingstone, should be narrowly construed.”*

The Livingstone judgment was also considered in detail in Bartlett, Milton Keynes Council [2008] APE 0401 in an appeal from a decision of the local standards committee. In the Case Tribunal’s view, the Livingstone judgment established that for a councillor to be acting in an official capacity:-

- (a) the councillor should be engaged in business directly related to the Council or constituents; and*
- (b) the link between the councillor’s office and the conduct should have a degree of formality.*

A further consideration is whether a councillor, although not conducting council business, could be said to be acting as a representative of the Council. For example, a councillor attending a conference as a delegate on behalf of their authority would not directly be conducting the business of the authority but could be said to be there representing the Council and hence expected to abide by the Code. In another case Judge Ward considered the meaning of the phrase ‘acting as a representative’ in Upper Tribunal Case No. GLSE/1111/2010 MC v Standards Committee of LB Richmond. Judge Ward drew an important definition between the term ‘councillor’ and ‘representative of his authority’; for Judge Ward a member acting, claiming to act or giving the impression that he was acting as a councillor is not on its own sufficient to find them within official capacity. For a member to be found within capacity when not directly conducting the business of their authority, they would have to either be formally acting as a representative of their authority or, in cases involving freedom of expression, purporting to be speaking as the ‘voice’ of their Council rather than just as an individual councillor.

This matter was further considered by Judge Laverick in First Tier Tribunal Case No. LGS/2011/0537. When considering the capacity in which a councillor was writing in an online blog, Judge Laverick took the view it was perfectly reasonable for a councillor to write posts in their private capacity even if they clearly identified themselves as a councillor. The key determining factor when considering whether a councillor was writing within their official capacity is whether the content is sufficiently connected to Council business in order for the Code to be engaged; to consider otherwise was found to be a disproportionate restriction of an individual’s freedom of speech and right to a private life. Judge Laverick accepted that under those circumstances a councillor could make offensive and possibly defamatory comments that may affect the reputation of the Council without necessarily breaching the Council’s Code of Conduct.

In this case, Cllr Melia was walking across the car park on his way to a Council Meeting so was not automatically engaged on council business at that time. The complainant was attending the premises for the purpose of highlighting what he felt to be less than acceptable behaviour of the Council. Cllr Melia walked towards the complainant and began to engage with him specifically on the subject of the comments being made. Cllr Melia repeatedly asked if he had given Mr. Saunders permission to film him and thereafter struck out knocking the complainant’s phone to the ground. In his interview, Cllr Melia referred to the allegations of corruption and denied that he had ever been in any way corrupt. It was clear that the prompt for the incident was a discussion of the failings, as perceived by Mr. Saunders, of the Council. Mr. Saunders’ emphasis was on the actions of the Council and its members as the subject of the protest. Cllr Melia’s subsequent response was to choose to engage with Mr. Saunders and subsequently to strike out. I find that, by entering into the discussion, Cllr Melia was engaged in matters

directly relating to the Council and his role as a councillor and was therefore acting in his capacity as a Councillor and that the Code of Conduct applies in these circumstances.

Having established that the Code is engaged, I then need to consider whether Cllr Melia's actions amounted to a breach of the Code.

### 5.3 RISK TO THE COUNCIL'S REPUTATION

The Code of Conduct clearly states that "You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions"

Cllr Melia was convicted on the 10<sup>th</sup> February 2022. The Court proceedings were widely reported in the local press. Links to a number of press reports are included at Appendix 1.

In terms of holding office as a Councillor with a criminal conviction, an individual is only disqualified if:

*"Within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;" (s80 Local Government Act 1972)*

Councillor Melia's sentence did not meet this criteria, therefore legally he is able to continue in his role of Councillor.

Councillor Melia was a Councillor at the time of the assault and in office at the time of his conviction. It was obvious that being convicted of an offence of assault had the potential to impact on the reputation of Councillor Melia and that of the council

### 5.4 BRINGING THE MEMBER'S OFFICE OR THE AUTHORITY INTO DISREPUTE

Whilst it is clear that Cllr Melia and others have been subjected to prolonged and extensive criticism from Mr Saunders, it is also clear that the Code of Conduct clearly sets out expectations of members faced with that situation. "If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police." It is important to ensure that Members in Sandwell understand that they must not take action against individuals which will bring them into conflict with Para 5.1 of the Code.

Cllr Melia also considers that there is an element of justification in his actions and he says that he has received extensive messages of support, both after the event, at his trial and later when he was campaigning for reelection. Cllr Melia was re-elected to the Council notwithstanding both his conviction and the extensive media coverage around the incident. In my view however, it is important that Cllr Melia acknowledge that his behaviour was not acceptable.

Paragraph 3.1 of the Code of Conduct requires Members to treat others with respect. The assault that took place, was clearly linked to the business of the Council. It was not a private assault, separate from Cllr Melia's role and duties and therefore would constitute a breach of that part of the code. I find that Cllr Melia is in breach of the code of conduct in that he has failed to treat a member of the public with



respect and courtesy and that by being charged and convicted of an offence of assault while acting in his role as a councillor he has brought the Council into disrepute.

## SECTION 6 - RECOMMENDATIONS

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I make the following general recommendations based on information obtained during the investigation. The relationship between the Council and Mr Saunders is not a positive one. There seems little option for an informal remedial process that will satisfy both the Complainant and the Council.

Mr Saunders has a right to exercise free speech and this right is protected by the Human Rights Act, which enshrined this provision in English law.<sup>3</sup> This right is particularly important for journalists and other people working in the media. It is well established that they must be free to criticise the government and our public institutions without fear of prosecution. Mr Saunders' publications carry him into this category, and he shows no indication that he intends to stop campaigning about the Council and its members and officers. It is also clear that for Members and indeed for some officers, the intense scrutiny and criticism from Mr Saunders is difficult to deal with.

Cllr Melia says that he has apologised to Mr Saunders. He is certainly reported in local newspapers as expressing remorse for his actions. Mr Saunders says that Cllr Melia has shown no remorse whatsoever. Mr. Saunders goes on to say that Cllr Melia “boasted to the local media, [that he was] widely congratulated by everyone for how [he] was in Court”.

I have some doubts about whether an informal resolution would be satisfactory to the Complainant given the history, but it is a matter for the Monitoring Officer to consider whether there are possibilities that could be acceptable. This report is produced for the Monitoring Officer who under the Sandwell arrangements is entitled to reach a number of conclusions: - that he disagrees and believes that in fact there is no breach; or that he agrees there has been a breach. If he agrees with my finding, he is entitled to take no further action, to seek an informal resolution or to refer the matter to a hearing before the relevant sub-committee.

**Miranda Carruthers-Watt FCIM, MBA LLB(Hons)**

**Associate, Hoey, Ainscough and Associates Ltd**

**6<sup>th</sup> October 2022.**

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<https://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/9#:~:text=Article%2010%20Freedom%20of%20expression,authority%20and%20regardless%20of%20frontiers.>

## APPENDIX 1

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### Newspaper and Media Reports

<https://www.expressandstar.com/news/politics/elections-2022/2022/05/06/councillor-who-admitted-beating-charge-re-selected-in-sandwell/>

<https://www.birminghammail.co.uk/black-country/councillor-guilty-assault-speaks-first-23626282>

[https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int\\_source=mantis\\_rec&int\\_medium=web&int\\_campaign=more\\_like\\_this](https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int_source=mantis_rec&int_medium=web&int_campaign=more_like_this)

<https://www.halesowennews.co.uk/news/19914370.councillor-given-conditional-discharge-damaging-bloggers-phone/>

<https://www.expressandstar.com/news/local-hubs/sandwell/2022/02/11/sandwell-councillor-may-hang-on-to-seat-despite-assaulting-blogger/>

<https://www.localgovernmentlawyer.co.uk/employment/395-employment-news/47683-senior-council-officer-fails-in-harassment-claim-against-local-blogger>

<https://www.lawgazette.co.uk/law/retired-solicitor-sees-off-harassment-claim-over-puerile-blog/5109277.article>

# **Sandwell Metropolitan Borough Council**

## **Members' Code of Conduct**

# **Member's Code of Conduct**

## **Introduction**

All councils are required to have a local Councillor Code of Conduct.

The Local Government Association (LGA) has developed a Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of Local government to continue to aspire to high standards of leadership and performance.

During the 2020/21 municipal year the Council's Member Development and Ethical Standards Committee undertook a comprehensive review of the Council's ethical framework and following consultation with elected members recommended this code to full council.

## **Definitions**

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

For the purpose of registration of your interest (Part C of the Registration of Interest Form), "potential conflicts of interests" includes relationships of the member, the member's spouse or the member's civil partner or any person with whom you are living as husband and wife or as if you were civil partners: a son/daughter (including a biological son/daughter, stepson/daughter, adopted son/daughter or male/female child for which the person has custodial responsibilities), mother, father, brother or sister, a niece, nephew, aunt, uncle, grandchild, grandparent, or a person with whom you have a close association (meaning someone that you are in either regular contact with over a period of time or a significant contact who is more than an acquaintance or can be considered to be a friend, a colleague, a business associate or someone whom you know through general social contacts) in relation to a council decision or contract.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out

the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

##### **1.1 I treat other councillors and members of the public with respect.**

##### **1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then

be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor/officer protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to information**

**As a councillor:**

- 4.1 I do not disclose information:**
- a. given to me in confidence by anyone**
  - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
    - i. I have received the consent of a person authorised to give it;**
    - ii. I am required by law to do so;**
    - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
    - iv. the disclosure is:**
      - 1. reasonable and in the public interest; and**
      - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
      - 3. I have consulted the Monitoring Officer prior to its release.**
- 4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- 4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **5. Disrepute**

**As a councillor:**

- 5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your



local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the resources of the Local Authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

**As a councillor:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## Appendix A – The Seven Principles of Public Life

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in Table 2

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registrable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



## Table 2: Other Registrable Interests

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body :
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management  
You have a personal interest if your family member or close associate(s) either works for the Council or has a contractual relationship with the Council. Named individuals will need to provide written approval for their personal data to be used or the member will need to sign a statement that they have obtained permission. Any such names will be redacted from the public register.

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment

on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

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### **Basic procedure**

- Pre-hearing process in which Member submits response and directions may be issued by Chair

At hearing:

- Investigating Officer presents report, calls witnesses to support his/her case makes representations
- Member has opportunity to question each witness
- Member then:
  - Gives his/her evidence
  - Calls any witnesses to support his/her case
  - Makes any representations
- Sub-Committee receives any advice from the Independent Person

- 
- Sub-Committee then deliberates on whether Member failed to comply with Code
  - Chair announces decision on that issue

**If no failure to comply with Code...**

- complaint is dismissed

**If failure to comply with Code...**

- Member is given the opportunity to make representations on sanction
- Sub-Committee receives any advice from the Independent person
- Sub-Committee then deliberates on sanction
- Chair announces decision on sanction

## **(5) After the hearing: Making a decision**

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### **Stage 1: Make findings of fact**

Sub-Committee first needs to decide what it considers that the evidence reveals Member did

- Facts may be largely or wholly agreed
- If not, what is in dispute?
  - Will be assisted if Member and Investigating Officer have agreed a list of agreed and disputed facts
  - Otherwise, will have to work this out from the parties' submissions and the evidence
- Only need to resolve factual disputes on relevant matters
  - Although parties may differ over what they consider to be relevant

- 
- Apply the civil standard of proof – balance of probabilities
    - In the light of the evidence is it more likely than not that X happened
    - Do not need to be sure
  - Have reasons for your conclusions on main disputed areas of fact
  - Possible that both parties are “half right”



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**Stage 2: Was the Member's conduct a failure to comply with the Code?**

- Identify the provisions of the Code that are alleged not to have been complied with
- Need to consider separately: (a) *each* alleged piece of conduct; and (b) *each* provision of the Code alleged not to have been complied with in respect of each piece of conduct
- In the light of what you have found happened at Stage 1, consider whether that amounts failure to comply with the relevant provision(s) of the Code.
  - May be the Member accepts that if he did X (which he denies) that would be failure to comply with the Code
  - Conversely, Member may accept he did X but deny it is failure to comply with the Code
  - You will need to consider any arguments put forward on either side

- 
- Need to have reasons for your conclusion on whether conduct found does or does not amount to failure to comply with the Code

Complicating scenarios:

- Factual finding falls short of what is alleged by the Investigating Officer, but arguably still amounts to a failure to comply with the Code?
- Sub-Committee considers that conduct found is a failure to comply with other or additional provisions of the Code

Safest to put these scenarios to the parties for their comment either:

- If these possibilities are anticipated – at the hearing
- If not, consider adjourning deliberation and briefly re-convening the hearing

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### **Stage 3: Sanction**

This stage only arises if there is a finding of failure to comply with the Code.

Need to consider among other things:

- Seriousness of failure to comply found
- Public interest in maintenance of standards
- Whether the failure to comply has had a particular impact on an individual/individuals
- Any mitigation on behalf of Member
- Any "*insight*" shown by Member
- How sanction might reduce risk of similar failures in future

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Available sanctions:

- Recommendation to Group Leader that Member be removed from Committees/Sub-Committees
- Recommend to Leader of Council Member be removed from Cabinet or removed from particular portfolio
- Instruct Monitoring Officer to arrange training for Member
- Recommend to Council to remove Member from outside appointments
- Withdraw facilities from Member, e.g. computer, email, etc.
- Exclude Member from Council offices or other premises (NB must not stop Member attending Council, Committees, Sub-Committees)

Sanction should be "*appropriate, reasonable and proportionate to the particular conduct*" (§9)

- Tailor the sanction

Dear Mr. Saunders

I write to apologise for my action on 7<sup>th</sup> December 2021.

I regret the whole incident and can assure you that it will not be repeated.

I realise that I caused you great alarm and distress and I deeply regret that and I offer a sincere apology.

I appreciate that in limited circumstances (solely in the event of any incident between us) this procedure could have consequences, but I understand that this is subject to the rule of law.

Steve Melia

9<sup>th</sup> December 2021

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From: [Surjit Tour](#)  
To: [REDACTED]  
Subject: RE: Melia Standards complaint  
Date: 29 November 2022 17:22:00  
Attachments: [Image001.png](#)  
[Image002.png](#)  
[Image003.png](#)

Dear Mr Saunders

The issue you raised concerning the apology was referred to the Investigator to consider before the investigation report was finalised.

This issue will be considered by the Standards Panel if the Panel determines that Cllr Melia has breached the Members Code of Conduct. The Panel will be advised of the conflicting position you have raised.

I have raised this issue with the Chair of the Standards Panel (for procedural purposes) and he concurs that the conflicting account as to whether an apology was provided will be a matter that the Panel will examine should Cllr Melia be found to have breached the Members Code of Conduct. You will be afforded the opportunity to make representations to the Panel in relation to the issue.

Yours sincerely

**Surjit Tour**  
**Director of Law and Governance**  
**& Monitoring Officer**  
Sandwell Metropolitan Borough Council  
Law and Governance  
Sandwell Council House  
PO Box 2374  
Oldbury  
West Midlands  
B69 3DE

T 0121 569 3264

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]  
Sent: 28 November 2022 11:30  
To: [REDACTED]  
Subject: Melia Standards complaint

**CAUTION: This email originated from outside of the Council / Children's Trust. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

THIS IS NOT A PRIVATE AND CONFIDENTIAL COMMUNICATION

Tour has written to me on 25th November 2022 sending me what is supposed to be the final version of a Report by Miranda Carruthers-Watt into the incident when Melia assaulted me.

Tour and Carruthers-Watt appear to have totally ignored my email of 23rd October 2022 when I pointed out that Ms Carruthers-Watt states twice that Melia has apologized to me when he has not and she cannot state any proof of Melia's assertion.

As there has been over one month since my email I rather assumed that the investigator - who is apparently being paid £3 600 plus vat - would have actually gone back to Melia and asked him where when and how Melia says the apology has been made? Seemingly she has not done so.

I am copying in Melia to this so that HE can clarify the position. Clearly you and the investigator have not dealt with this. I will not be stitched-up here and at least I can expose Melia's lies when he is unable to confirm the fictional apology.

I also want this email placed before the Standards Committee if this matter is not clarified NOW.

Julian Saunders

THE SANDWELL SKIDDER - COMMUNITY NEWS

[REDACTED]

READ THE SKIDDER KIDDER!

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<https://www.expressandstar.com/news/politics/elections-2022/2022/05/06/councillor-who-admitted-beating-charge-re-selected-in-sandwell/>

# Express and Star

## News

### Sandwell election: Councillor who admitted beating charge re-selected

By Thomas Parkes Sandwell Local elections 2022 Published: May 6, 2022 Last Updated: May 6, 2022

A councillor who admitted an assault by beating charge in court earlier this year has praised democracy after being re-elected to Sandwell Council.



Councillor Steve Melia held onto his seat

Councillor Steve Melia held onto his seat at the count on Thursday with 1,335 votes to Conservative Connor Jones' 1,169 votes in the Great Barr with Yew Tree ward.

The Labour councillor said he was the "best candidate" for the role contrary to "lies and slurs" and people had trusted him – as they always had done – within the area.

Councillor Melia was ordered to pay £200 compensation for assault as well as court costs at a Dudley Magistrates' Court hearing in February after an incident in December last year.

He had knocked the mobile phone out of a hand of blogger Julian Saunders – known as the Sandwell Skidder – amid a protest outside Sandwell Council House in Oldbury.

And the court was told by Mrs Shelia Hicklin, mitigating for Melia, said: "This is is a sad day. He will live with a stain on his character. He accepts what he did was wrong. He will not be able to serve after so many years. He will lose his council nominated positions. In effect this is the end of his political life."

But it wasn't the end of his political life, with the councillor being selected to defend his seat in the latest set of local elections – which he did with a narrow victory over the Conservative candidate.

Speaking after his win, Councillor Melia accused his opponent of asking for "recount after recount after recount", adding: "Thank you everybody, thank you to Great Barr with Yew Tree for your votes. Democracy wins in the end as it will every time. I was and still am the best candidate, contrary to lies and slurs. Mr Jones had asked for recount after recount after recount and I got a better result. Unbelievable.

"I will, as always, be out and about the ward day in and day out. Thank you all for your support and thank you to the tellers for your dilligence. I'm sorry it has taken so long but it was worth the wait, wasn't it?"

The councillor, speaking to the Express & Star after his win, said: "In spite of all the slurs, democracy has come through. The people have trusted me as they have always trusted me.

"There was complications at the count – nothing to do with the Labour Party. I couldn't believe he thought people couldn't count up to 25 – he (Mr Jones) had questioned a count of up to 25.

"But I am very pleased and happy to represent Great Barr with Yew Tree. I will be there day in, day out, on the phone, on the doorstep, or by email – I'm always available for people."

Councillor Melia, of Friar Park Road in Wednesbury, was handed a 12-month conditional discharge for the offence, ordered to pay £200 in compensation and £130 in costs as a result of the court case.

<https://www.birminghammail.co.uk/black-country/councillor-guilty-assault-speaks-first-23626282>

# Birmingham Live

## Councillor guilty of assault speaks for first time as he stands for re-election in Sandwell

Steve Melia, who represents Great Barr with Yew Tree, said he accepted what was said in court.

- **Bookmark**

**BLACK COUNTRY**

BY

**Rhi Storer** Local Democracy Reporter

- 15:48, 7 APR 2022
- **UPDATED** 15:55, 7 APR 2022



**Councillor Steve Melia represents the Great Barr with Yew Tree ward for Sandwell council.** (Image: Sandwell council)

A councillor who pleaded guilty to assault is standing to be re-elected in [Sandwell](#). Councillor Steve Melia, who represents Great Barr with Yew Tree, will be standing in his ward in this year's local election. In February, he [pleaded guilty](#) to assault by beating at Dudley Magistrates Court.

The 75-year-old, was conditionally discharged for 12 months and ordered to pay £130 legal costs and £200 compensation for the offence, which took place in Freeth Street, Oldbury. But this week he spoke out for the first time since the incident said he has had lots of support from the public.

The [Local Democracy Reporting Service](#) (LDRS) understands councillor Melia's suspension has been lifted, first instated in December, and as a result is eligible to stand for [Labour](#). The court heard Mr Melia had [knocked a phone](#) out of the hands of a blogger who was filming elected members entering Sandwell council chambers ahead of a full council meeting last December.

**READ MORE:** [Full list of candidates standing for local elections 2022 in Sandwell](#)

During the court case, Shelia Hincklin, defending, said the case marked 'the end' of Melia's political career. Deputy district judge Bal Dhaliwal said [Wednesbury](#) -born Melia had 'lost his good name' after years of supporting his local community. But according to this year's [candidate papers](#), Keith Allcock, a councillor for Newton who is standing in this year's local election in Sandwell, proposed to nominate him as a candidate, alongside an individual called 'J Ivor Norton'.

One source involved in local politics told the LDRS there had been 'no campaigns' in either [Great Barr](#) with Yew Tree or Charlemont with Grove Vale council wards by Labour. It comes as Jennifer Hemingway, who previously worked as a councillor in Nottingham, was announced to be standing in Charlemont with Grove Vale.

And another source said Sandwell Labour 'knew exactly what they were doing'. They said: "[Labour] wouldn't have had the forms until March 4 at the earliest, so when they put his name on that paper, they knew exactly what they were doing.

"My gut feeling is [Labour] had no one to stand in Great Barr with Yew Tree, so a small clique in Sandwell Labour decided to put Melia back. They knew it would get a reaction, so they must have ran it right up until the deadline to announce so that when nominations closed there was nothing anyone could have done about it." .

When approached by the LDRS, councillor Melia said he has been supported by all sections of the community in his local ward.

He said: "I was accused, I was suspended from the Labour party, and I accepted what was said in court. I have been widely congratulated by everyone for how I was in court. They believed I was very reserved in my actions as opposed to what was being said to me and other councillors at the time.

"No one I have spoken to has said I did anything wrong. They said it had no right to go to court, and I have had support from all sections of the community."

Councillor Melia dismissed claims of ‘no campaigns’ taking place in Great Barr with Yew Tree, and added canvassing and door-knocking across the ward was going ‘absolutely fine’.

## Could you become a councillor?

You can be a councillor as long as you are:

- British or a citizen of the Commonwealth. EU citizens who were living in the UK before the end of the EU Withdrawal Agreement Implementation Period (up until 1 January 2021) would keep their right to vote and stand in elections.
- At least 18 years old
- Registered to vote in the area or have lived, worked or owned property there for at least 12 months before an election.

You can't be a councillor if you:

Have been sentenced to prison for 3 months or more (including suspended sentences) during the last five years

Have been convicted of a corrupt or illegal practice by an election court.

If you are already a local councillor and receive a three month custodial sentence or more (including suspended sentences) you will automatically lose your seat.

If you're looking to stand in an election to become a local councillor, the [Local Government Act 1972 \(section 80\)](#) states that if you have been convicted and received a prison sentence (or suspended sentence) of three months or more in the five years before the election, you are unable to stand in the election.

“There is a good reception on the doorstep. When you knock on doors, you don't always get support from everyone, but I am encouraged by the support I am receiving.”

Councillor Melia faces Connor Jones of the [Conservatives](#) and Mark Smith of the [Liberal Democrats](#) for a seat in the Great Barr with Yew Tree ward.

Polls will [open](#) on May 5.

[https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int\\_source=mantis\\_rec&int\\_medium=web&int\\_campaign=more\\_like\\_this](https://www.birminghammail.co.uk/black-country/sandwell-councillor-pleads-guilty-assault-23050181?int_source=mantis_rec&int_medium=web&int_campaign=more_like_this)

# Birmingham Live

## Sandwell councillor pleads guilty to assault filmed on phone

Steve Melia was conditionally discharged for 12 months and ordered to pay £330 costs

- **Bookmark**

**BLACK COUNTRY**

BY

**Rhi Storer** Local Democracy Reporter

**Annabal Bagdi** Senior reporter

- 12:40, 10 FEB 2022
- **UPDATED** 15:02, 10 FEB 2022

### SANDWELL COUNCILLOR KNOCKS A PHONE OUT OF THE HANDS OF A BLOGGER

A **Sandwell** councillor has been given a conditional discharge after pleading guilty to assault by beating.

Stephen Roy Melia, often referred to as Steve, of Friar Park Road, appeared at **Dudley** Magistrates' Court today (February 10).

The court heard **Mr Melia knocked a phone out of the hands of Mr Julian Saunders**, who blogs under the title the Sandwell Skidder, filming elected members entering Sandwell council chambers ahead of a full council meeting.

**READ MORE: [Blogger films alleged assault by Sandwell councillor](#)**

Mr Saunders, 63, could be heard in the video saying to councillors: "Back to the future? More corruption? More cronyism? More incompetence?"

Councillor Melia then walked past, pointed a finger at Mr Saunders and knocked the phone from his hand in what has been described as assault.

Shelia Hincklin, defending, said the case marked "the end" of Melia's political career.

The retired electrical engineer - who receives £20,000 a year from his pension pot - initially admitted to police that he struck the phone from Mr Saunders hand, the court heard.

Ms Hincklin added: "He has led a law-abiding lifestyle. He has served the community. It's very sad today because it will be a day when he leaves with a stain on his career.

"He said what he did was wrong and he regrets what he did."

Deputy district judge Bal Dhaliwal said [Wednesbury](#) -born Melia reacted in the "heat of the moment" after "proactive remarks" were hurled at him.

He has now "lost his good name" after years of supporting his local community, she said.



**Councillor Steve Melia was filmed during the altercation with a blogger.** (Image: Julian Saunders)

The judge added: "It will come as no surprise to you that when someone is in the position and role that you had, that there will be widespread attention on your actions and comments on any other work that you are doing.

"That comes with the nature of the role that you were carrying out.

"On this particular occasion, it's clear and, in my view, unfortunate, that certain remarks were being made to you.

"Your actions went well beyond what would have been acceptable in this circumstances."

The judge added: "There is also no justification, in my view, for you to have to listen to the comments that were being made in this particular situation."

Ms Karen Cockitt, prosecuting, said the victim reported a dull ache to his hand but no bruising after the incident in Freeth Street last year.

She told the court Mr Saunders, whose phone suffered a small chip to its screen, had written blogs about Sandwell Council since 2013.

Melia was conditionally discharged for 12 months and ordered to pay £130 legal costs and £200 compensation for the offence, which happened last December in Freeth Street, [Oldbury](#).

When approached by the [Local Democracy Reporting Service](#), Mr Melia declined to comment further.

According to the website of the Local Government Association Model Councillor Code of Conduct, councillors may be in breach of a code of conduct if they bring their authority into "disrepute".

It says their behaviour is subject to greater scrutiny than ordinary members of the public, adding: "You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions."

Sandwell council was approached for comment.

<https://www.halesowennews.co.uk/news/19914370.councillor-given-conditional-discharge-damaging-bloggers-phone/>



# Halesowen News

## Councillor given conditional discharge after damaging blogger's phone

10th February

By Matthew Cooper, PA

**Steve Melia and Sandwell Council House, at Oldbury.**

A VETERAN Labour councillor who knocked a phone out of a blogger's hand while passing a noisy protest as he headed into a meeting has admitted a charge of assault by beating.

Sandwell Council member Steve Melia, aged 75, admitted the offence at Dudley Magistrates' Court on Thursday and was sentenced to a 12-month conditional discharge.

Opening the facts of the case, prosecutor Karen Cockitt said blogger Julian Saunders reported a dull ache to his hand but no bruising after the incident on December 7 last year.

She told the court Mr Saunders, whose phone suffered a small chip to its screen, had written blogs about Sandwell Council since 2013.

The prosecutor added: "As part of that work he regularly stands outside of Oldbury Council House before council meetings in order to question councillors heading into those meetings."

The assault, which took place as Mr Saunders was filming, coincided with a demonstration about the fate of a local golf course, the court heard.

Defence solicitor Sheila Hicklin said retired electrical engineer Melia - the chair of several local bodies including the Sandwell area armed forces and veterans parade committee - had been subjected to abusive comments on a daily basis outside the council's offices.

Ms Hicklin told the court: "On this particular day when this incident occurred, it's correct to say Mr Melia was going to the full council meeting.

"He accepts he went over the top. He did strike the phone out of Mr Saunders's hand."

Passing sentence, Deputy District Judge Bal Dhaliwal said there had been no justification for the comments made towards the councillor.

Ordering Melia, of Friar Park, Wednesbury, West Midlands, to pay £200 in compensation and £130 towards the costs of the prosecution, the judge told him: "It's clear and in my view unfortunate that certain remarks were being made to you.

"It's clear to me that you reacted in the heat of the moment.

"Having said that your actions went well beyond what would have been acceptable in this set of circumstances."

<https://www.expressandstar.com/news/local-hubs/sandwell/2022/02/11/sandwell-councillor-may-hang-on-to-seat-despite-assaulting-blogger/>

# Sandwell councillor may hang on to seat despite assaulting blogger

By [Deborah HardimanSandwell](#) Published: Feb 11, 2022 Last Updated: Feb 11, 2022

Stalwart Labour councillor Steve Melia may retain his seat despite being sentenced to a 12-month conditional discharge for assaulting a blogger.



Councillor Steve Melia is shown in a video from Julian Saunders aka Sandwell Skidder

The 75-year-old, ward representative for Great Barr with Yew Tree, was also [ordered to pay £200 compensation for knocking a phone](#) out of the hands of blogger and protester Julian Saunders, aka Sandwell Skidder.

Melia, who pleaded guilty to an offence of assault by beating, was sentenced at a hearing at Dudley Magistrates' Court on Thursday.

Following the hearing, a spokesman for Sandwell Council said: "The council has been made aware of the conviction and the council's Monitoring Officer is considering the matter. Councillor Melia remains an elected member.

"The conviction and sentence do not disqualify him from remaining a councillor.

"The council, however, expects all councillors to abide by the members' code of conduct. It would not be appropriate to comment any further on this matter at this time."

The victim was filming elected members outside Sandwell Council House, in Freeth Street, [Oldbury](#), on December 7 when an altercation took place between him and the long-serving councillor who was suspended by the Labour Party following the incident.

Sentencing him Deputy District Judge Bal Dhaliwal said the councillor, of Friar Park Road, in [Wednesbury](#), said: "It will come as no surprise to you when I say that for someone in your position there will be widespread attention given to your actions and that comes with the nature of the role that you carry out.

"And no surprise that comments are recorded and made public so that wider society can see it. It is clear and unfortunate that certain remarks were made to you."

Ms Dhaliwal said there was "no doubt" that some of the comments had been "provocative", but he should have reacted with restraint.

Mr Saunders, 63, who blogs as Sandwell Skidder, could be heard in the video saying to councillors: "Back to the future? More corruption? More cronyism? More incompetence?"

Melia was filmed walking past, then pointing a finger at Mr Saunders before knocking the phone from his hand.

He must also pay £130 costs.

<https://www.localgovernmentlawyer.co.uk/employment/395-employment-news/47683-senior-council-officer-fails-in-harassment-claim-against-local-blogger>

# Local Government Lawyer

## Senior council officer fails in harassment claim against local blogger

- July 19, 2021

A series of “unpleasant, personally critical publications” by a blogger about a senior local government officer did not found a successful claim for harassment under the Protection from Harassment Act 1997, a High Court judge has ruled.

In *McNally v Saunders* [2021] EWHC 2012 (QB) Mr Justice Chamberlain granted summary judgment to the defendant, Julian Saunders, also known as *'The Sandwell Skidder'*.

However, the judge said nothing he had said should be taken as implying that he considered any of the criticisms made by Mr Saunders of Dr Lisa McNally, Director of Public Health at Sandwell Metropolitan Borough Council, to be justified. “Equally, nothing in this judgment casts any doubt on the effects which she says they have had on her.”

The defendant, a semi-retired solicitor, has published a blog, *In the Public Domain?*, since 2013. This was initially a response to Sandwell’s decision to withdraw funding for an art centre run by Mr Saunders’ wife.

The blog and many of Mr Saunders’ other online posts are about the council, its activities and its elected members and officers.

Dr McNally alleged that, by publishing a series of blog articles and tweets about her, Mr Saunders pursued a course of conduct amounting to harassment contrary to s. 3 of the 1997 Act.

She sought an injunction to restrain Mr Saunders from continuing to harass her and damages for distress and injury to feelings. There was originally an additional claim under the General Data Protection Regulation and the Data Protection Act 2018, but that was abandoned.

The claim was brought with the support of Sandwell Council.

Mr Saunders applied to strike out the Particulars of Claim on the ground that they disclosed no reasonable grounds for bringing the claim and/or for summary judgment on the ground that the claim had no real prospect of success.

Mr Justice Chamberlain said: “Mr Saunders says that the blog is ‘directed at exposing corruption, cronyism and incompetence’ at the Council. He describes it as ‘satirical and sensational’ and

says that it uses 'terms that might cause raised eyebrows within the [Royal Courts of Justice] but would go down well in Tipton'. Mr Saunders is an avid reader of *Private Eye* and aims to emulate its style. Whether he succeeds in that aim is another matter."

As at 1 April 2021, there had been a total of 743 posts on the blog. The average readership was over 2,500. It was rare for a post to have fewer than 1,000 readers, the judge said.

Dr McNally claimed that Mr Saunders had "pursued a campaign of oppressive and unacceptable behaviour against the employees and officers of the Council since at least 2018". Particulars were given of other council employees and officers who were said to have been the targets of unfair adverse comment by Mr Saunders.

Mr Saunders argued in his witness statement that the council had, since 2014, "tried every trick in the book to close my blog down and to destroy my reputation and finances", adding that he considered the claim to have been brought with that objective.

"I mention these wider allegations, by the Council on the one hand and by Mr Saunders on the other, because they are part of the background to this claim. The material before me does not enable me to form any concluded view about them," the judge said.

"Nor would it be appropriate to do so. The present application requires a rigorous focus on the acts said to constitute harassment in this case, not on conduct alleged to have been directed by Mr Saunders against others, nor on the motivation for the steps the Council has taken against him."

The tweets, posts and emails about which Dr McNally complained were issued by Mr Saunders after she had made a 2-minute video to coincide with Mental Health Awareness Week 2020 in which she revealed she had struggled with mental ill health since childhood. The five blog posts (plus three more passing references), seven tweets and two complaints to the council were published between June 2020 and February 2021.

In her Particulars of Claim, Dr McNally pleaded that the course of conduct complained of had had an impact on her mental health. She had ceased to use Facebook for anything significant because she was afraid of the comments Mr Saunders might make about her. She said she was very reluctant to accept any invitations from the media for interviews for fear of Mr Saunders' adverse commentary. She had declined an invitation to one event and agreed that she would not participate in media interviews because of Mr Saunders' actions and their impact on her. This was a matter of importance in view of her role as Director of Public Health. She had indicated that she would not be comfortable attending face-to-face Council meetings because she feared being accosted by Mr Saunders. She described feeling "crippling" anxiety about such meetings.

A blog post by the defendant on 27 January 2021 caused Dr McNally to decide to resign from the council, though that decision was postponed after discussions with Sandwell's chief executive. She had since sought counselling. There had been effects on Dr McNally's husband and family. Dr McNally also worried about her ability to do her job at a critical time for the Borough "if someone is publicly calling into question my qualifications and suitability for the job".

Counsel for the defendant argued that the blogs, tweets and complaints were published in the context of Mr Saunders' activities as a citizen journalist, and these publications were entitled to the same protection as those of the mainstream press.

He also suggested that the publications were nothing like the "deliberate and persistent course of targeted oppression" or the "conscious abuse... of media freedom" necessary to constitute unlawful harassment.

The publications complained of were "occasional critical remarks about the public conduct of a senior local government official", counsel for Mr Saunders said. Nor ought the defendant to have known that such publications amounted to harassment. Senior public officials should be open to scrutiny and criticism and the law provided that the limits of acceptable criticism were wider than for private individuals, he added.

Counsel for Dr McNally meanwhile argued that the defendant's conduct met the threshold for harassment under the 1997 Act. She accepted that Article 10 ECHR (freedom of expression) was engaged, but not that Mr Saunders' activities attracted the highest level of protection. Although he sought to portray himself as a "citizen journalist", as an unregulated lone blogger, he was not entitled to the protection accorded by the authorities to journalism in the mainstream press, she submitted.

Her case also was that Mr Saunders ought to have known that what he was doing amounted to harassment. Counsel for Dr McNally relied in particular on the fact that the defendant knew of her history of mental ill-health and carried on taunting her in circumstances where it would be obvious to a reasonable person in possession of the same information that she would be distressed by his doing.

Mr Justice Chamberlain noted that the authorities made it clear that a course of conduct consisting entirely of publication to the world at large could constitute harassment. But he added that the authorities also emphasised that 'publication-only' harassment cases would be rare and exceptional.

The judge noted that *The Sandwell Skidder* was not part of the mainstream press or media. "Its focus is narrow and local. It is not regulated. Mr Saunders is not a formally trained journalist. Although he is apparently assisted by others, there is nothing to suggest that his posts are reviewed by an editor. The content of the posts themselves suggests the contrary. Given their frequently puerile tone and style, a casual reader, whether in Tipton or anywhere else, might be surprised to discover that they are the work of a semi-retired former solicitor."

However, Mr Justice Chamberlain said none of these features disentitled them to the protections afforded by the law to journalistic expression. "The enhanced protection which Article 10 gives to such expression is not limited to those in the mainstream or conventional press or media. Even if it were possible reliably to identify outlets falling into this vague category, there is no reason of principle why publications that fall outside it should, for that reason, receive lesser protection from the law."

The judge added that a review of the blog posts in which the material complained of appeared showed that Mr Saunders employed the same abrasive tone and style throughout, whomever he

was criticising. “This does not mean that his output enjoys any lesser protection than would be applicable to more moderately expressed prose.”

Mr Justice Chamberlain accepted as a fair description that there were “sexualised comments” in Mr Saunders’ blog posts. However, he said it was important to consider the language of the posts and tweets as a whole. “The dominant impression is that they contain trenchant criticism of Dr McNally, rather than just abuse or insults.”

The judge said that there was no doubt that, in commenting on her mental ill-health, Mr Saunders was commenting on something intensely personal to Dr McNally.

“But the subject matter was in no sense private; it was something Dr McNally had herself decided to place in the public domain. For my part, I regard that decision as reflecting favourably on Dr McNally, because her disclosure was likely to have the effect she intended – i.e. to reassure others with mental health conditions that they are not alone and that it is possible to live with and recover from them,” he said.

“But someone who decides to make a public disclosure of this kind must expect that, while many people are likely to comment favourably, some may choose to make comments that are adverse. This is one of the reasons why those who make such disclosures are often aptly described as courageous.”

The judge said he accepted that the limits of acceptable criticism of officers would be narrower than in the case of elected politician, but some public criticism was “inevitable”.

In this case, the fact that Dr McNally occupied a public health role during a pandemic meant that her performance of the role was of particular public importance, he found. “The public interest in that performance being subject to scrutiny and criticism was commensurately greater. The extent of that public interest does not depend on the criticisms being justified. If it did, the court would be assuming for itself the role of deciding whether criticisms made of public officials were well-founded. Because that would not be knowable in advance, it would operate to disincentivise critical comment.”

The judge said it was necessary to balance the publisher’s right to freedom of expression against the rights and interests of the claimant. He noted that in this case “there was no allegation that anything said was factually untrue (as distinct from being unjustified comment)”.

Mr Justice Chamberlain also said that Mr Saunders’ criticisms were directed at things Dr McNally had chosen to say in public very recently. “That being so, it is far from obvious to me that Article 8 [the right to respect for private and family life] is engaged at all. If it is (for example on the basis that the criticisms were about her mental health, which is an aspect of her “physical and psychological integrity”: see *Pretty v United Kingdom* (2002) 35 EHRR 1, [23]), the weight to be attached to her Article 8 interests is significantly diminished by her own decision to put her history of mental ill-health into the public domain.”

The judge said that, separately from any Article 8 right of Dr McNally’s, it was necessary to consider the public interest in Dr McNally being able to continue in her important public role without being subject to conduct which undermines her ability to do so.



“For these purposes, at the summary judgment stage, I am willing to assume that there is a powerful public interest in Dr McNally remaining in post, particularly given the importance of her role to the Council's response to the pandemic. I also assume the accuracy of what Dr McNally has said about the impact of Mr Saunders' words on her.”

However, the judge said, “even so, these public interests are outweighed by Mr Saunders' Article 10 rights”. This was, given that:

- (a) the complaint letters did not add materially to the course of conduct complained of;
- (b) the course of conduct therefore involved, materially, publication to the world at large and, at least after Dr McNally had "blocked" him on Twitter, there was no evidence that Mr Saunders took steps to bring the posts or tweets to her attention;
- (c) even though Mr Saunders' blog was not part of the "mainstream" or "conventional" media, the posts and tweets were "journalistic material" for the purposes of s. 2(4) of the HRA and attracted the enhanced protection given by Article 10 to journalistic expression;
- (d) their puerile and abrasive tone and style did not disentitle them to that protection;
- (e) their content was not, on its own, such as to make them oppressive or such as to make it unreasonable for Mr Saunders to publish them; and
- (f) Dr McNally's Article 8 interests were either not engaged at all or the weight to be given to those interest was significantly diminished by her own decision to put her history of mental ill-health into the public domain.

Mr Justice Chamberlain concluded that this was one of those cases where – as in the Duchess of Sussex's case – the court ought to "grasp the nettle" at this stage. “In my judgment the claim has no real prospect of success.”

He therefore granted summary judgment for Mr Saunders under CPR r. 24.2.

## The Law Society Gazette

LAW

# Retired solicitor sees off harassment claim over 'puerile' blog

By [Michael Cross](#) 19 July 2021

A retired solicitor's 'abrasive' and 'frequently puerile' blog posts are entitled to the same level of protection as mainstream journalism, a High Court judge has ruled, striking out a harassment claim brought by a local government officer.

In *McNally v Saunders*, Mr Justice Chamberlain said the case, over posts on the 'Sandwell Skidder', a blog set up by local resident Julian Saunders devoted to alleged malpractices at Sandwell Metropolitan Borough Council, had no reasonable prospect of success.

The case was brought under the Protection from Harassment Act 1997 by Dr Lisa McNally, Sandwell's director of public health and a mental health campaigner. McNally was the subject of five blog posts, criticising her decision to post a two-minute video about her own struggle with mental health and questioning her qualifications. She said the posts had caused her 'crippling' anxiety about attending meetings and made her worry about her ability to do her job.

For McNally, Aileen McColgan QC said that, as an 'unregulated lone blogger', Saunders is not entitled to be treated as a journalist. Saunders 'ought to have known' that his actions amounted to harassment.

The judge ruled that the claim would hinge on the content of Saunders' blogs rather than any oral evidence that might emerge at a full trial. Saunders, he said, aims to emulate the style of Private Eye: 'Whether he succeeds in that aim is another matter.' Given his posts' 'frequently puerile tone and style, a casual reader... might be surprised to discover that they are the work of a semi-retired former solicitor,' he said. However 'none of these features disentitles them to the protections afforded by the law to journalistic expression.'

While Saunders' repeated references to McNally's history of mental ill-health might have tipped the balance towards 'oppression, persistence and unpleasantness', he noted that McNally herself had chosen to place the information in the public domain.

Commending McNally's work, he said that 'someone who decides to make a public disclosure of this kind must expect that, while many people are likely to comment favourably, some may choose to make comments that are adverse.'

Meanwhile, there was a public interest in the performance of a senior officer being subject to scrutiny and criticism. The public interest in her being able to continue in her role was outweighed by Saunders' Article 10 right to free expression, he said. 'Their puerile and abrasive tone and style did not disentitle them to that protection.'

He granted summary judgment for Saunders under CPR rule 24.2.

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