

**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

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.

Rule 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, intimidating 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

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 intimidating 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

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.¹

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

¹ 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

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 10th 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."²

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

² [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

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 10th 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

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.³ 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

6th October 2022.

³

<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

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

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