

COMPLAINT DECISION NOTICE

COMPLAINT REFERENCE: (MC280222)

DECISION: BREACH OF THE MEMBERS' CODE OF CONDUCT

Power to determine the Complaint

This Code of Conduct complaint against Cllr Melia has been determined under the Members' Code of Conduct ('the Code'), the Council's Arrangements for Dealing with Standards Allegations Under the Localism Act 2011 ('the Arrangements') set out in the Sandwell Metropolitan Borough Council Constitution and the procedure adopted by the Ethical Standards Sub Committee ('the Sub Committee'). The decision was made by the Ethical Standards Sub Committee held on 16 December 2022.

The Complaint

A complaint was made against Cllr Melia by a member of the public (the 'Complainant') with regard to Cllr Melia's conduct before a meeting of the Council on 7 December 2021. The complainant alleged that Cllr Melia had assaulted him. Subsequently, 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.

The following provisions of the Code are relevant to the complaint:-

Rule 1.1.1 - I treat other councillors and members of the public with respect;

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

The Monitoring Officer assessed the complaint in accordance with the Arrangements. An external investigator, Miranda Carruthers-Watt, a consultant, appointed through Hoey Ainscough Associates Ltd was appointed on 21 July 2021. Before the final report was completed, Cllr Melia and the complainant were invited to make comments on the draft investigation report in accordance with the Arrangements.

The investigation report was finalised and provided to the Monitoring officer on 8 November 2022. The investigator concluded that Cllr Melia had breached both paragraphs 1.1.1 (respect) and 5.1 (disrepute) of the Code. Subsequently the Monitoring Officer decided to refer the matter to the Sub Committee for a decision.

Ethical Standards Sub Committee

The Ethical Standards Sub Committee ('the Sub Committee') was held on 16 December 2022 and comprised Cllr Allcock (Chair), Cllr Lewis, Cllr Dunn and Mr Richard Phillips (Independent Person). The Sub Committee was advised by David Wilcock, Solicitor and Deputy Monitoring Officer. Miranda Carruthers-Watt, attended

to present her report and the CCTV and video evidence. No witnesses were called by her.

Cllr Melia attended the hearing and made representations. He said the incident complained about did not take place in public meeting, nor in a public place and that he was not acting as a councillor at the time. He said that as a private citizen he objected to being filmed in a private space without his consent and that he objected to being accused of corruption. When the matter went to court, Cllr Melia said he pleaded guilty and apologised to the court, which he believed was intended to apply to the complainant too. He added that he had also sent in his apology to the Council, although he was unable to evidence the delivery of a written apology to the complainant. He said it was the first time he had behaved like this in his 60 years of public service and that he had received a positive reaction from the public to the court case.

Consideration and Findings

As a preliminary matter, the Sub Committee considered whether Cllr Melia was acting in an official capacity, as this is relevant as to whether or not the Code applied to the circumstances of the complaint. On the evidence before them, the Sub Committee found that, by entering into a discussion with the complainant, Cllr Melia was engaged in matters directly relating to the Council and his role as a councillor. Therefore, they concluded he was acting in his capacity as a councillor and that the Code applied in these circumstances.

The Sub Committee then went onto decide, whether or not, Cllr Melia has breached the Code. They considered the Investigator's report and her submissions at the hearing. They also viewed CCTV footage provided from the Council's closed-circuit security system, as well as a YouTube clip of the incident provided by the complainant. The Sub Committee noted too that Cllr Melia admitted he had struck out knocking the complainant's phone to the ground and that he was subsequently prosecuted, pleaded guilty and was convicted and sentenced for that assault at the Magistrates' Court.

The Sub Committee found that Cllr Melia was in breach of the Code in that he failed to treat a member of the public with respect and courtesy, contrary to paragraph 1.1.1 of the Code.

The Sub Committee then considered whether Cllr Melia's conduct had brought his role as councillor, or the authority, into disrepute under para 5.1 of the Code. The Sub Committee found that he had brought both his role and the authority into disrepute. The factors that they attached weight to were Cllr Melia's admission of guilt in the criminal proceedings, his conviction, the adverse press coverage of the incident and court proceedings. They concluded that when taken together they were of such seriousness as to have diminished confidence in Cllr Melia as a councillor and the authority as a whole.

Sub Committee Decision on Sanction

Cllr M offered no further comments in mitigation. The Sub Committee noted he felt that the hearing had been fair.

Having found that Cllr Melia was in breach of paragraphs 1.1.1 and 5.1 of the Member's Code of Conduct, the Sub Committee made the following decision on sanction, having considered carefully all the evidence they had heard at the hearing:

The Sub Committee said that as a councillor, Cllr Melia had an important community leadership role to undertake and this was carried out in the public eye. As such, councillors would be faced with challenging situations, but it was always up to them to maintain restraint and professionalism when carrying out their official duties. The Sub Committee concluded that Cllr Melia's conduct during the incident complained about and his lack of remorse at the hearing, fell short of the high standards expected of the Council's elected members. Accordingly, the Sub Committee

Resolved:

- 1. That Cllr Melia makes an apology at the next full meeting of the Council and also sends a written apology to the complainant in a form agreed with the Chair of the Sub Committee, within 28 days;**
- 2. That the Monitoring Officer be instructed to arrange appropriate training for Cllr Melia;**
- 3. The Leader is recommended to request that Council removes Cllr Melia from any or all committees or sub committees of the Council.**

Notification of Decision

This decision notice will be sent to Cllr Melia, the Complainant and the Independent Person and will be published on the Council's website for 12 months.

There is no right of appeal against this decision. The complainant may make a complaint to the Local Government & Social Care Ombudsman. Their details may be found at www.lgo.org.uk/contact-us



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Cllr Keith Allcock

Chairperson of the Standard Panel

11 January 2023