

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

CONCERNING

Former DC 3828 Davis

OUTCOME

1)The Panel must now determine outcome.

2)The former officer provisions apply. Paragraph 20.66 of the Home Office Guidance 2020 states:

a) Where there is a finding of gross misconduct, the panel can only consider two potential outcomes: disciplinary action or no disciplinary action.

b) Where there is a finding of gross misconduct and disciplinary action imposed it can only be that the former officer would have been dismissed if they had still been a member of a police force. There is no option to enforce other sanctions such as a final written warning or reduction in rank given the termination in the former officer's employment status. If the panel determines that the matter does not justify the sanction that the former officer would have been dismissed, no action will be taken, and the finding of gross misconduct recorded.

3)In assessing the seriousness of this case we are required (as usefully summarised in the College of Policing Guidance on Outcomes in Misconduct Proceedings) to keep at the forefront of our minds the purpose and objective of these proceedings, which is to maintain public confidence in and the reputation of the Police, uphold high standards and deter misconduct and to protect the public. We appreciate that the objective is not to punish the officer (although it may have that effect) and that we should therefore do no more (although also no less) than that which is necessary to satisfy the key objectives of the proceedings. We must (and we have) considered the seriousness of the misconduct, the purpose of sanctions and chose an outcome which most appropriately meets that purpose. Assessing the seriousness is to be approached in terms of the four factors set out in the Fuglers decision which we have carefully considered and will come onto in some detail in a moment.

4)The Panel have therefore followed the structured approach as set out in the College of Policing Guidance on Outcomes in Police Misconduct Proceedings.

In summary, the Panel:

Assessed the seriousness of the conduct and the behaviour of the officer.

Reminded itself of the purpose of imposing sanctions, namely:

Maintaining public confidence in and the reputation of the police service;

Upholding high standards in policing and deterring misconduct; and protecting the public.

Arrived at an Outcome which most appropriately fulfils the purpose of imposing sanctions in the light of the seriousness of the officer's conduct.

5)Seriousness of the Conduct and Behaviour:

In assessing the seriousness of the behaviour of former DC Davis, the Panel considered the following factors in line with the guidance in the CoP Guidance on Outcomes:

The culpability borne by him for his actions

The harm caused by his actions

The existence of any aggravating factors

The existence of any mitigating factors

6)Culpability

We find former DC Davis's culpability to be high.

a. The Panel consider that former DC Davis's conduct was deliberate and intentional, therefore more culpable than conduct that has unintended consequences. Former DC Davis's Regulation 31 response makes clear that he knew the extent of his debt, the defaulted accounts and CCJs.

Former DC Davis accepted the totality of the factual assertions and therefore, a course of dishonest conduct in providing misleading information on several occasions during the vetting process and in subsequent communications with the Anti-Corruption Unit, as opposed to an isolated incident of dishonesty.

An aggravating feature is the fact that he had been reminded of the importance of honesty throughout the process and was presented with multiple opportunities whereby he could have communicated the truth about his poor financial situation.

For example, on his return from Qatar in 2019, he failed to disclose on the Recruitment Vetting Form that he had accounts in default and / or had been subject to a possession order and / or an attachment of earnings order and / or a CCJ. Further, he provided false assurances in respect of his intention to obtain an up-to-date credit report, the state of his finances at his point of departure for Qatar and / or his financial history more generally. He falsely asserted his financial difficulties were over 10 years ago, when in fact they were current and in existence prior to his departure from Qatar.

On page 10 of the application form he signed a declaration that stated, inter alia, "I declare that the information I have given is true and completed to the best of my knowledge and belief and dated this 29 December 2019."

b. Certain types of misconduct should be considered especially serious, and this includes Operational dishonesty, impropriety or corruption.

Whilst this is not a case of operational dishonesty, the Guidance makes clear that honesty and integrity are fundamental requirements for any police officer and that we should consider any evidence that an officer is dishonest or lacks integrity seriously.

In the words of Lord Justice Maurice Kay in *Salter v Chief Constable of Dorset*, police officers: '[...] carry out vital public functions in which it is imperative that the public have confidence in them. It is also obvious that the operational dishonesty or impropriety of a single officer tarnishes the reputation of his Force and undermines public confidence in it.'

Former DC Davis failed over a not inconsiderable period of time to manage his finances, despite support offered by the constabulary. Despite the assistance, former DC Davis was repeatedly dishonest about his financial affairs.

c. The National Crime Agency (NCA) National Strategic Assessment identifies that money is one of the common motives for corruption and that unmanageable debt can place Police personnel in a vulnerable position and so become more likely to engage in corrupt activities in order to try and relieve their debt. That is why it is imperative for police officers to manage their finances.

7)Harm

The Panel consider the risk and/or likelihood of harm to be high, both to the individual officer in terms of increasing his vulnerability and to the reputation of the force.

a. The College of Policing Guidance addresses the harm caused by the officer's actions, indicating that this can be considered in various way. The text refers to harm caused to particular individuals, but the guidance recognises that harm may also be caused on a wider basis:

"Where gross misconduct has been found and the behaviour has caused – or could have caused – serious harm to individuals, the community and/or public confidence in the police service, dismissal is likely to follow. A factor of the greatest importance is the impact of the misconduct on the standing and reputation of the profession as a whole."

b. Para 4.68 states that, where no actual harm has resulted, consider the risks attached to the officer's behaviour, including the likelihood of harm occurring and the gravity of harm that could have resulted.

c. Para 4.69 reminds the Panel that, how such behaviour would be, or has been, perceived by the public will be relevant, whether or not the behaviour was known about at the time. We consider that the risk to the public perception and of reputational harm to the force attached to the former officer's clear and continuing pattern of poor financial management is high.

e. In addition to the potential for reputational harm, there is evidence of some actual reputational harm.

Whilst former DC Davis was in Qatar, his former Landlord attended Hereford Police Station to deliver an order for possession. Bailiffs attended at his mother in laws address. In addition, former DC Davis's unmanageable debt problems necessitated court and other formal proceedings to be taken by creditors.

f. The Panel have also considered para 4.74:

Where gross misconduct has been found and the behaviour has caused – or could have caused – serious harm to individuals, the community and/or public confidence in the police service, dismissal is likely to follow. A factor of the greatest importance is the impact of the misconduct on the standing and reputation of the profession as a whole.

g. Police officers and staff have immense power in virtue of the role they hold in society.

When the police fail to act with honesty and integrity or in accordance with force policies, it can have a negative impact on public confidence in the police. As Lord Bingham rightly said: "A profession's most valuable asset is its collective reputation and the confidence which that inspires" (Bolton v Law Society 1993).

By failing to act in a truthful manner and by the repeated making of false and /or inaccurate oral and written statements, the Panel consider that public confidence would be damaged to a greater extent if they were aware. Honesty and integrity in the conduct of police officers is fundamental and the public should be able unquestioningly to accept the honesty and integrity of a police officer.

8)The CoP Guidance then provides non-exhaustive lists of potential aggravating and mitigating factors.

The Panel find that the following factors that indicate a higher level of culpability or harm apply:

- attempting to blame others (his wife)
- significant deviation from instructions, whether an order, force policy or national guidance
- multiple proven allegations and/or breaches of the Standards of Professional Behaviour.

9) Mitigating factors:

The Panel do not find that any mitigating factors apply. The factual admissions were made at a very late stage in the proceedings within his Regulation 31 Response.

10)The CoP Guidance addresses personal mitigation. It states that personal mitigation is not relevant to the seriousness of the misconduct, and it is to be considered after this assessment. Further, that "the weight of personal mitigation will necessarily be limited particularly where serious misconduct has been proven". The primary consideration "is the seriousness of the misconduct found proven. If the misconduct is so serious that nothing less than dismissal would be sufficient to maintain public confidence, personal mitigation

will not justify a lesser sanction". Nonetheless, "personal mitigation is always relevant and should always be taken into account".

As such, the Panel have noted the unblemished but unremarkable service history of former DC Davis.

11) Outcome

a. The Appropriate Authority made the submission that the only possible sanction is that, if former DC Davis was still a serving officer, would be dismissed without notice.

b. The Panel find that the appropriate sanction had former DC Davis still been a member of the Police Force would have been that of dismissal without notice.

The Panel is also satisfied that the breaches of the standards, as we have found, would have been incompatible with his service as a Police Officer if he had still been in service and that the need to protect public confidence in and the reputation of the police service, the need to maintain high professional standards and the need to protect the public and officers and staff by preventing similar misconduct in the future is appropriately served by the imposition of disciplinary action.

12) As a result of this Misconduct Hearing the following was found with effect from the 8th of February 2024:

"Dismissal without Notice".

As a consequence of this outcome former DC Davis will be placed on the College of Policing Barred List.

13) Appeal

a. Former DC Davis has a right of appeal. Notice must be given within 10 working days of the receipt of the regulation 43 Report under the 2020 Regulations. The Federation representatives will be able to provide the former officer with further information if required.

Wendy Evans
Legally Qualified Chair

Edward Hancox
Superintendent

Christy Wannop
Independent Member

