



ACCELERATED MISCONDUCT HEARING –

PS 1362 JACOB TYLER

In accordance with Regulation 63, The Police (Conduct) Regulations 2020, below-listed are the findings and any disciplinary action imposed in the above case. This document must be supplied to you before the end of 5 working days beginning with the first working day after the conclusion of the misconduct proceedings.

Chair: Chief Constable Debbie Tedds

IMPORTANT NOTE: REPORTING RESTRICTION

1. I direct under regulation 59(2)(c) that the name of the victim in this case, Pc X, is not published in any notice or report. This is because she is a junior officer and (there is no dispute) a victim of the conduct alleged. It may negatively impact her feelings and privacy to be associated with reports of this case publicly, and to be reminded of these proceedings again and again, which is unjustified on the facts of this case. The parties agreed with this approach.

Details of the conduct alleged to have breached the Standards of Professional Behaviour:

2. The REGULATION 51 - NOTICE OF REFERRAL TO ACCELERATED HEARING states:

“It is alleged that you breached the Standards of Professional Behaviour in that:

1. On 12 August 2022, following a team night out in Birmingham, in public and whilst walking to Birmingham New Street Station, without asking PC X, you unfastened her bra strap.

Your conduct described above engages the Standards of Professional Behaviour in relation to:

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- Discreditable Conduct

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

- Authority, Respect and Courtesy

Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

The above conduct breached the Standards of Professional Behaviour and amounts to gross misconduct.

If proven this allegation amounts to gross misconduct, a breach of the standards that is so serious that your dismissal would be justified.”

Findings:

3. In reaching my findings, I have considered:
 - The Police (Conduct) Regulations 2020 and the Home office Guidance on *Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing*,
 - The Police Code of Ethics.
 - The College of Policing Guidance on Outcomes in police misconduct proceedings
4. The burden of proof is on the AA throughout to the civil standard (what is more likely than not).
5. The officer admitted gross misconduct in breach of the two standards alleged in his regulation 54 notice.
6. I accept that admission.
7. It is particularly important that the AA and the victim do not say the conduct was sexual. I find that the conduct was misjudged ‘tomfoolery’ during a social event, off duty.
8. Nevertheless, it is serious, for the reasons the AA have submitted at paragraphs 20-23 of his opening note. The victim’s personal space was invaded and it is particularly unacceptable that this happen to a junior female officer. The officer’s regulation 54

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response to the case also demonstrates mature reflection on why his conduct was completely unacceptable.

9. My legal advisor stated and the parties agreed that I should adopt a structured approach to my decision under regulations 61(16) and 62, by reference to the College of Policing's guidance, which I adopt:

"4.2 ... there are three stages to determining the appropriate sanction:

1. assess the seriousness of the misconduct
2. keep in mind the purpose of imposing sanctions
3. choose the sanction that most appropriately fulfils that purpose for the seriousness of the conduct in question

4.3 Assess the seriousness of the proven conduct, by reference to:

1. the officer's culpability for the misconduct
2. the harm caused by the misconduct
3. the existence of any aggravating factors
4. the existence of any mitigating factors ..."

10. In relation to seriousness,

1. the officer's culpability for the misconduct

11. Culpability is high because, as the officer recognises, he has no one to blame but himself. However, I do believe there was no pre-planning and I accept that the conduct was an opportunistic act which was very ill-judged, rather than malicious or sinister conduct. Again, the AA and victim agree, it was not sexual misconduct (page 35, according to the victim: "I'm not saying that he did it because he wanted to see my boobs or he did it because it was a sexual thing, he did it ... if he did it 'cos he was trying to be an idiot, like he was smashed and he just did it, but it threw me off."

2. the harm caused by the misconduct

12. The College of Policing guidance on outcomes states:

"4.66 Harm will likely undermine public confidence in policing. Harm does not need to be suffered by a defined individual or group to undermine public confidence. Where an officer commits an act that would harm public confidence if the circumstances were known to the public, take this into account. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims."

13. There has been some harm, in terms of the impact on the victim, how she was made to feel, and the public would rightly expect better of any police officer, especially a sergeant. The potential for negative impact on public confidence is a factor, even though this case is not widely known.

14. But it has also been accepted by the AA that there was a context of laughter on the evening in question around the conduct, and an apology and forgiveness the next day

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which lessened any harm. There was also a continued supportive relationship on shift between the parties after the incident for a long period before the matter was raised. So, it is my view, that the level of harm in this particular case, which again did not involve any sexual intent or feeling by the victim of sexual intent, is mid-level only.

3. *the existence of any aggravating factors*

15. There are no special aggravating features in this case, however the officer was a sergeant, who should have and did know better than to do what he did, even on a convivial night out while off duty with junior colleagues. Dignified treatment of female colleagues is a very significant area of concern, locally and nationally. Intoxication by alcohol is no mitigation for the officer because he got himself into a state where he crossed a line and invaded the personal space of the victim.

4. *the existence of any mitigating factors ...*

16. I have taken into account the submissions in mitigation in the officer's regulation 54 response and his oral representations. Personal mitigation carries limited weight in these proceedings, but I do note that this is an officer who has over many years demonstrated a commitment to public service, and high standards. He has made appropriate apology, admissions and he has the insight to recognise how he has let himself, his colleagues and the Force down by his conduct in this case.

Outcome

17. I have decided to impose disciplinary action and I have the three stage approach mentioned already in mind at this stage.

18. The purpose of Police misconduct procedures is:

- “1. to maintain public confidence in, and the reputation of, the police service
2. to uphold high standards in policing and to deter misconduct
3. to protect the public”

19. In relation to choosing the most appropriate outcome to fulfil those purposes in this case, the parties are agreed that the options are: final written warning, reduction in rank, or dismissal without notice.

20. I do not think a final written warning would be sufficient, because of the nature of the conduct alleged: invading the personal space of a junior female colleague in the manner the officer accepts he did and at least potentially causing her great embarrassment in public. The officer will already have fully understood that this was a boundary that should not be crossed. As a leader, he should have and will have been conscious of the need to maintain appropriate boundaries; positively demonstrate respect to his colleagues, including off duty; and be conscious of how actions may be interpreted. He will also have been aware already of the need to not get himself into a situation where he was behaving immaturely and without self-control, let alone in public. He completely failed to act appropriately in these respects and there must be a clear consequence which now follows, and signals to other officers that this Force holds high standards and holds officers to account for them.

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21. But I do not think dismissal is warranted either. The main reason for this is, as I have emphasised above, the absence of any sexual or sinister intent, and the fact that this was a one-off incident of gross misconduct in a social setting off duty, which the officer apologised for quickly and then made unreserved admissions of wrongdoing.
22. Instead I find that reduction in rank is the appropriate and proportionate outcome in this case, from sergeant to constable. I received representations from the AA in the antecedents and also in a second document from the AA, which was handed up at the conclusion of the hearing and which the defence are content for me to take into account. The officer has been well regarded for his public service to date, and operationally he can be reintegrated into the force in the role of constable. There is no reason why the reduction in rank outcome cannot be considered by me in this case.
23. This officer was a trusted and, as his character references demonstrate, effective supervisor. But this incident has demonstrated a serious failure of his leadership and maturity, and a loss of trust accordingly. Personal accountability is crucial and while the officer has demonstrated insight in his representations to the hearing, there must be a consequence of him acting in ways completely inconsistent with how a sergeant is trained and expected to act in this force, on and off duty.
24. My view is the officer needs to be removed from his supervisory rank and he needs to earn back trust and prove himself as a constable who models authority respect and courtesy. The door is not shut to him returning to the rank of sergeant at some point in the future, through the appropriate evidence-based processes and procedures.
25. I want all officers, especially supervisors, to appreciate even more clearly following this case that they must positively demonstrate authority, respect and courtesy and be conscious, on and off duty, of not bringing themselves and the force into discredit. I also want all officers to appreciate that if they are concerned about the conduct of another officer towards them, on or off duty, including a supervisor, they can and should raise this with PSD, the sooner the better. They will be supported when they do so.

Chief Constable Debbie Tedds

Signed:

Date:

If you wish to receive a copy of the record of the proceedings, please contact the Professional Standards Department on extension 5083.

You have a right of appeal against the finding. Should you wish to exercise this right you must do so in writing to the Chairman of the Police Appeals Tribunal within ten days of this notice. Please note that the tribunal can increase any outcome imposed as well as reduce or overturn the decision of the panel. You have the right to be legally represented at the appeal hearing.

Form of receipt to be completed by former officer subject of proceedings:

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I acknowledge receipt of this written notice of the misconduct proceedings, dated of which this is a true copy.

Signed.....

Date.....