

**IN THE MATTER OF MISCONDUCT PROCEEDINGS UNDER THE POLICE  
(CONDUCT) REGULATIONS 2020**

**Between:**

**THE COMMISSIONER OF POLICE OF THE METROPOLIS**

Appropriate Authority

**and**

**PS NAVIN THAMMANNA**

Officer Concerned

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**OUTCOME REPORT OF PANEL'S DECISION**

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**INTRODUCTION**

1. The misconduct hearing for PS Navin Thammanna, the Officer Concerned ("the OC"), was held in public at Empress State Building, London. The hearing was held between 16 March 2026 to 17 March 2026. The Panel comprised of Commander Katie Lilburn and Independent Panel Members David Scott and Lesley Stephen.
2. The Appropriate Authority ("the AA") was represented by Ms Kara Loraine. PS Thammanna was represented by his police federation representative PS James Jackson.
3. The Panel was assisted by John McNamara, Legally Qualified Advisor.
4. A notice of hearing was published in accordance with the Police (Conduct) Regulations 2020 ("the 2020 Regulations").

**PRELIMINARY ISSUES**

5. No issue was taken with the service of any notice under the 2020 Regulations.
6. The Panel were notified on the morning of the hearing that the OC had not attended due to **[redacted]**. The OC had also submitted his resignation, but

this had not come into effect, and he was still a serving officer at the time of this hearing. The AA applied to proceed in absence. On the OC's behalf there was no objection to this application. No medical evidence had been provided on the OC's behalf.

7. The Panel considered the application having regard to Regulation 41(4) of the 2020 Regulations. The Panel considered it was in the interests of fairness to ensure the proceedings were held as soon as possible. The Panel considered there was no increased likelihood of the OC's attendance were they to adjourn, and it in the interests of fairness to all parties it was right to continue.

### **REGULATION 30 NOTICE**

8. On the first day of the hearing, the Panel was referred to the Regulation 30 notice in respect of the OC containing the allegations and that his conduct amounted to gross misconduct, namely:

#### **Allegation 1**

9. On or about 25 January 2025 at Freshwharf Custody suite while carrying out your role as custody sergeant you were involved in the initial assessment of a Mr Malik, an arrested and subsequently detained person. You spoke to Mr Malik in an unprofessional, disproportionate and unjustified manner contrary to the professional standards of equality and diversity, respect and courtesy, duties and responsibilities and/or discreditable conduct in that you said:

- a. **“you're leaving the country again”**

This comment was made because of Mr Malik's race/nationality, demonstrated bias against him by both assuming that i) Mr Malik had previously been deported from the UK and ii) would be deported again and was an unnecessary and inflammatory comment.

- b. Words, of words to the effect of **‘I don't care’** and **‘stop talking’** repeatedly and **‘I don't give a fuck about you’**;

These comments were rude, argumentative and inappropriate. Mr Malik was a vulnerable person known to have a risk of self harm/suicide and as the custody sergeant responsible for his welfare in custody, indicated personal dislike/bias against Mr Malik and an intention not to carry out your role in accordance with your responsibilities.

- c. **“you smell and look like a junkie”**

This comment was offensive, unnecessary and inflammatory.

- d. Repeatedly **'where did you steal your trainers from'** and **'looking at you, smelling like you do where did you steal your trainers from'**  
This comment was offensive, unnecessary and inflammatory. Together with the 'junkie' comment it indicated bias and prejudice against Mr Malik based on his appearance and was made because of his homelessness and/or his race/nationality. As a police officer, making a comment which included the presumption that Mr Malik had committed the criminal offence of theft, which was unsupported by any evidence and in respect of which he had not been arrested was particularly inappropriate and implied that Mr Malik would not be treated fairly or have his rights respected.
- e. **"You shouldn't even be in this country"** and, repeatedly, words to the effect that Mr Malik had previously been deported and would be deported again.  
These comments were made because of Mr Malik's race/nationality and demonstrated bias against him by both assuming the correct outcome in relation to Mr Malik's separate immigration proceedings and that he had previously been deported, matters about which you knew nothing. They were unnecessary and inflammatory comments.

### **Allegation 2**

10. On or about 25 January 2025 at Freshwharf Custody suite while carrying out your role as custody sergeant you were responsible for providing Mr Malik with custody clothing which was appropriate for him. You stated, **"No shoes, I'll get him medium clothing, in fact I met [typo] get small clothing for you."** You knew based on your observations of Mr Malik that small clothing was inappropriate for him and would cause him discomfort and threatened to deliberately provide him with the wrong clothing. This was contrary to the professional standards of equality and diversity, respect and courtesy and duties and responsibilities.

### **Allegation 3**

11. On or about 25 January 2025 at Freshwharf Custody suite while carrying out your role as custody sergeant you were present during a search of Mr Malik conducted in the strip search room. Mr Malik did not present a risk of violence to yourself, or any other person. Your behaviour fell below the professional standards of use of force, equality and diversity, respect and courtesy, and/or discreditable conduct in that you:
- Threatened Mr Malik with physical violence by saying **"Sir unless you want your face buried in the floor you will do what he's got to say"**;
  - Used unnecessary and disproportionate force against Mr Malik for no legitimate purpose by pushing him against a cupboard unit in the search room;
  - Mocked and taunted Mr Malik while he was being changed into custody clothing by saying words to the effect of **"that's not what your mum said this morning when I kicked her out of bed"**.

#### **Allegation 4**

12. On or about 26 January 2025 at Freshwharf Custody suite while carrying out your role as custody sergeant you behaved in a manner contrary to the professional standards of, equality and diversity, respect and courtesy, duties and responsibilities and/or discreditable conduct in that you:
- a. Made comments to PC Barnaby-Murrel repeatedly suggesting that you had wanted to assault Mr Malik and the only reason you did not do so was because you were aware of the presence of CCTV cameras and had seriously considered assaulting Mr Malik, or assaulting him more severely, in the search area because there were no CCTV cameras there including saying:
    - i. **“when I was in the search room, I knew there was no cameras, I had to hold myself back.”**
    - ii. **“its just as well there’s camera’s in those holding cells or I’d be getting criminally charged with battering him”**
  - b. Made comments to PC Barnaby-Murrel to the effect that you felt it was appropriate to be ‘rude’ to and to shout and swear at Mr Malik/detained persons who are verbally abusive.

As a sergeant you were a more senior officer than PC Barnaby-Murrel and your behaviour sets an example and creates expectations of standards of acceptable behaviour to more junior officers. Your comments encouraged excessive use of force/gratuitous violence against detained persons and a culture of behaving unprofessionally and abusively towards detained persons.

13. Your behaviour, taken together, is properly seen as a pattern or course of misconduct which could be considered so serious that your conduct warrants dismissal.

#### **CASE SUMMARY AND ADMISSIONS**

14. The OC had admitted all the breaches in the Regulation 30 saves for allegation 2, the threat to bring small clothing and allegation 3b, the push in the strip-search room.
15. As the facts of this case took place in a Custody Suite, the bulk of the incident was caught on CCTV.
16. Mr Malik (“the Detainee”) had been arrested for an immigration offence. During escort in the back of police van the Detainee was verbally abusive. The officers dealing with his arrest recall that during this time the Detainee had become irritated in the back of the van and kept repeating to the effect of “Fuck your Mum.”
17. The Detainee had a self-harm marker recorded against him, meaning he was a vulnerable individual.

18. At 6.40pm PS Thammanna is heard on CCTV entering the 'hanger' at Freshwater Wharf Police Station and speaking with the arresting officers.
19. At 6.41pm CCTV footage from the 'hanger' shows PS Thammanna holding a clipboard whilst standing near the police vehicle. PC Samuels opened the vehicle's doors and Mr Malik proceeded to exit. PS Thammanna conducted his initial assessment, and the following interaction is heard on CCTV:

**PS Thammanna:** *Okay today you're gonna be searched*

**Mr Malik:** [INAUDIBLE] *problem with me searching you, that's not your job arresting me, why*

**PS Thammanna:** *Sir, immigration want to talk to you*

**Mr Malik:** *Fuck immigration* [INAUDIBLE]

**PS Thammanna:** *No. You wanna say- tell them to their face*

**Mr Malik:** *Yeah I did, I did, I did say, I did say fuck your immigration mum* **PS**

**Thammanna:** *You're at breach of the Deportation Order*

**Mr Malik:** [INAUDIBLE]

**PS Thammanna:** *So you're leaving the country again*

**Mr Malik:** *Brother*

**PS Thammanna:** *I need* [INAUDIBLE]

**Mr Malik:** *Who the fuck are you*

...

**Mr Malik:** *Fuck you, search me inside the police station*

**PS Thammanna:** *No we'll search you here*

**Mr Malik:** *Search me here* [INAUDIBLE]

**PS Thammanna:** *I don't know, I don't care*

**Mr Malik:** *Asking me, asking, when you ask him, he said* [INAUDIBLE]

**PS Thammanna:** *I don't care*

**Mr Malik:** *Said something* [INAUDIBLE]

**PS Thammanna:** *Stop talking, I don't care*

**Mr Malik:** *Okay okay, because-*

**PS Thammanna:** *Stop talking, I don't care*

**Mr Malik:** *Any problem that police mother fucker* [INAUDIBLE]

**Mr Malik:** *I don't give a fuck you*

**PS Thammanna:** *I don't give a fuck about you*

**Mr Malik:** *Fuck you* [INAUDIBLE]  *fucking junkie*

**PS Thammanna:** [INAUDIBLE] *You smell and look like a junkie*

**Mr Malik:** *You smell like a junkie*

**PS Thammanna:** *And look like a junkie*

**Mr Malik:** *Fucking you look like a junkie, a fucking druggie, you a drug dealer*

**PS Thammanna:** *Yeah, must be*

**Mr Malik:** [INAUDIBLE] *junkie*

**PS Thammanna:** *Listen mate you're* [INAUDIBLE]

**Mr Malik:** *Yes and*

**PS Thammanna:** *You're the one who's gonna be in the cell until Monday*

**Mr Malik:** *Yes I don't give a fuck, I don't give a fuck*

**PS Thammanna:** [INAUDIBLE] *don't give a fuck*

**Mr Malik:** *I don't give a fuck, when you ask-*

**PS Thammanna:** *That's why I said don't talk to me, don't talk to me*

**Mr Malik:** *I see-*

**PS Thammanna:** *Don't talk to me*  
**Mr Malik:** *I don't give a fuck about you*  
**PS Thammanna:** *Don't talk to me*  
**Mr Malik:** *Fuck you, fuck you*  
**PS Thammanna:** [INAUDIBLE]  
**Mr Malik:** *Fuck your fucking mum, you'll deport me, you piece of shit*  
 [INAUDIBLE]  
**PS Thammanna:** *Don't talk to me*  
**Mr Malik:** *Fuck you, fuck you police, I fucking dead your mum, I'll dead mum*  
 [INAUDIBLE]  
**PS Thammanna:** *Erm could you assist with getting him into custody clothing?*  
**Mr Malik:** *You say judge judge, fuck your mum [INAUDIBLE] fucking take my clothes*  
**PS Thammanna:** *Where did you steal your trainers from?*  
**Mr Malik:** *Huh?*  
**PS Thammanna:** *Where did you steal your trainers from?*  
**Mr Malik:** *Excuse me [INAUDIBLE]*  
**PS Thammanna:** *Yeah, looking at you, smelling like you do where did you steal your trainers from?*  
**Mr Malik:** *Fuck you, fuck you [INAUDIBLE] junkie*  
**PS Thammanna:** *Yeah I do*  
**Mr Malik:** [INAUDIBLE]  
**PS Thammanna:** *You shouldn't even be in this country* **Mr Malik:** *You don't know*  
**PS Thammanna:** *You got deported*  
**Mr Malik:** *Fuck you [INAUDIBLE] deport me, do you know how many years in this country?*  
**PS Thammanna:** *The British government, the British government*  
**Mr Malik:** *Fucking deport me, I did [INAUDIBLE]*  
**PS Thammanna:** *The British government deported you*  
**Mr Malik:** *Fuck how can deport me, deport me, deport mother fuckers if somethings done [INAUDIBLE]*

20. Some of the arresting officers noted that the conduct of the OC was unprofessional and had an adverse effect on the Detainee, evidently annoying him. It was also noted that the OC was short, blunt and dismissive. The officers also noted that when it was suggested the arresting officer would conduct a search of the Detainee the OC said, "no it's the witching hour, if you want to get booked in you'll go into custody and make this go smoothly."

21. The incident continued and is captured by CCTV at 6.43pm as the Detainee is taken to the strip search room. The following conversation is overhead between the OC and the Detainee:

**PS Thammanna:** *That's right they deport a mother fucker*  
**Mr Malik:** *Yeah fuck you no mother fucker you, they deport you*  
**PS Thammanna:** *I'm still here after 50 years you must have done something wrong [speaking to the other officers] yeah if we keep the cuffs on. Pop in here [referring to the search room]*

22. At 6.44pm CCTV footage captured the following conversation:

**PS Thammanna:** *What size shoes are you?*

**Mr Malik:** *You don't need that*

**PS Thammanna:** *Ok well I'll give you no shoes then*

**Mr Malik:** *I don't need shoes*

**PS Thammanna:** *No shoes, I'll get him medium clothing, in fact I might get small clothing for you*

23. PC Tarbard, one of the officers from the arrest stated that he believed those words to be intended to be "belittling" due to the OC not liking the obscenities spoken by the Detainee.

24. Mr Malik was taken to a search room, this room contains no cameras. Therefore, there is no video footage available. However, CCTV cameras outside of the room do capture some audio.

25. At 6.44pm Mr Malik is heard on CCTV footage from the holding area shouting and being verbally abusive towards the officers inside the strip search room. It is mostly inaudible, but he is heard stating, "shut the fuck up", "fucking police", "fuck."

26. At 6.45pm the following interaction is heard from the strip search room on CCTV footage from the holding corridor:

**Mr Malik:** [INAUDIBLE]

**PS Thammanna:** *Sir unless you want your face buried in the floor you will do what he's got to say*

**Mr Malik:** *No fuck you whatever you arrest me* [INAUDIBLE]

27. Two of the officers present in the room then witness the OC use force against the Detainee, by pushing him against a cupboard unit. Both those officers state that the use of force was not necessary, and at no point had the Detainee been physically violent.

28. The officers report that following this the Detainee had become annoyed at this point and had started to shout words to the effect of "Fuck your mum" to which the OC has replied "That's not what your mum said this morning when I kicked her out of bed this morning". The officers considered this comment unnecessary and unprofessional.

29. To the credit of the arresting officers, they reported the Officer's Concerned conduct to their Inspector on their return to their Police Station.

30. The events continued the next day, the 26 January 2025, when the OC was captured on CCTV speaking to another officer. The OC said:

**PS Thammanna** *You know when I was in the search room, I knew there was no cameras, I had to hold myself back*

**PC Barnaby-Murrel** *Really?*

**PS Thammanna** *I had to hold myself back [INAUDIBLE]*

**PS Thammanna:** *Someone's made a complaint, so I'm not allowed to be in the same [INAUDIBLE]*

**Unknown officer:** *Are you kidding me? [LAUGHS] so how [INAUDIBLE] complaint?*

**PS Thammanna:** *As long as he's in custody, I'm not allowed to be here*

**Unknown officer:** *[INAUDIBLE]*

**PS Thammanna:** *The one who just came back out of the van. But I'm not sure if he's made the complaint or the officers made the complaint. Cos I was really rude to him. I'm talking swearing, shouting. Cos he was like that from the offset. You know how he was in custody. He was like that straight away and I wasn't gonna tolerate that behaviour, so I just shouted and screaming and swear back. But that was in front of three officers, so I don't know if the officers have put in the complaints or if he's put in the complaint. Because as soon as the [INAUDIBLE] duty officers were involved, I'm thinking that's a little too quick, someone in custody may have put in the complaint to the duty officer [INAUDIBLE]....I can see where they're coming from but at the same time if they want to stand in there and take it, all the abuse from him, they can do that, but I'm not prepared to do it. I'm gonna shout and swear straight back at him*

31. The OC's disciplinary record shows he has received 25 complaints.

32. A complaint from 11 March 2019 relates to PS Thammanna being discriminatory towards a detainee. The allegation stated that PS Thammanna mocked the detainee for being disabled, verbally abused him and left him with no communication when he was released from custody. This complaint was upheld by the IOPC and resulted in management action.

33. Another complaint from 3 February 2014 relating to two allegations states PS Thammanna failed to record his use of force against an individual and failed to supervise a DDO's use of force and their recording of it. This complaint found a case to answer and resulted in formal action.

### **THE PANEL'S APPROACH**

34. The Panel reminded itself it was: -

- a. Required to consider the facts of the case and to make its findings of fact in relation to the allegation;
- b. Determine whether those findings of fact found constituted a breach of the relevant standard;
- c. Determine whether the conduct found proven against the Complainant amounted to misconduct or gross misconduct.

35. The Panel reminded itself that the burden of proof is on the Appropriate Authority throughout, and the standard of proof is the balance of probabilities, namely 'what is more likely than not'.
36. The Panel has approached its decision making by keeping in mind the purpose and character of police misconduct proceedings. The primary purpose being not to punish the officer but to protect public confidence in, and the reputation of, the police service by holding officers accountable and making clear that improper behaviour will not be left unchecked. A secondary purpose is to be declaratory of high professional standards, and a final purpose is to protect the public, officers and staff by preventing similar misconduct recurring in the future. The Panel has had regard to *Bolton v Law Society [1994] 1 WLR 512*; *Chief Constable of Dorset v PAT, Salter Interested Party [2011] EWHC 3366 (Admin)* and *R (Williams) v PAT [2016] EWHC 2708 (Admin)*.
37. The Panel has also had regard to a framework of regulations and guidance, in particular the following:
- a. The Police (Conduct) (Amendment) Regulations 2024 (the "Regulations") including in particular the Standards of Professional Behaviour at schedule 2;
  - b. 2018 Home Office Guidance (the "HOG"), including in particular chapter 1, summarising the Standards;
  - c. The definition of misconduct given at Reg 3(1) of the Regulations: "a breach of the Standards of Professional Behaviour";
  - d. The definition of gross misconduct given at reg 3(1) of the Regulations: "a breach of the Standards of Professional Behaviour so serious that dismissal would be justified".

## **FINDINGS OF FACT**

38. The Panel were only required to make findings of fact in relation to the two disputed allegations. It is noted that the OC did not attend to give evidence on any of the disputed aspects. As such the Panel considered the papers in the case.

### **Allegation 2**

39. The Panel found this allegation proved on the balance of probabilities.
40. The Panel noted that the words used are recorded on CCTV and are not in dispute. The issue is whether the OC said those words with the best of intentions as per his Regulation 31 notice, or as alleged by the AA there were said maliciously as part of a wider course of conduct against the Detainee.

41. The Panel considered the evidence that the Detainee could be or could reasonably be considered a “size small” in clothing to be unlikely. The Custody Record shows that the Detainee was 183cm tall. The Panel reviewed the CCTV footage and considered it clear that Mr Malik could not be reasonably considered a size small.
42. The Panel found that these comments are said in the context of the ongoing conduct. We noted that PC Tarbard, as a contemporaneous witness, stated he considered the comment was made with the intention to be belittling. The Panel found the comment made was intended to be antagonistic.
43. The Panel found that the allegation breached the standards of equality and diversity, respect and courtesy and duties and responsibilities.
44. The context of the admitted conduct of the OC being rudeness and abusiveness meant the Panel inferred this comment was discriminatory, and as such a breach of the standard of equality and diversity. The Panel considered that the whole package of conduct was discriminatory due to the Detainee’s race and nationality.
45. The Panel concluded that if Allegation 2 was dealt with in isolation, it would be considered misconduct. However, as this case occurs in the wider context of a backdrop of ongoing conduct by the OC towards the Detainee the Panel considered it meets the threshold to be gross misconduct i.e. the OC could be dismissed.

### Allegation 3b

46. The Panel found this charge proved on the balance of probabilities.
47. The Panel attached weight to the evidence of PC Samuels, who provided an account of there being a threat of force, and then use of force as a push. This is corroborated by the evidence of PC Tarbard; both officers witness the push, and both gave clear and consistent evidence on this issue. Both considered it was an unnecessary use of force.
48. In his second interview the OC initially denied making the comments he made to PC Barnaby-Murrel. This has been subsequently proved by CCTV footage. The Panel considered the OC’s credibility was damaged by such a denial; he had only admitted to conduct which was clearly recorded on CCTV.
49. The Panel noted that PC Thomas, who was present in the strip-search room did not record seeing a push in his statement. The Panel considered that that did not amount to evidence that there was not a push by the OC. There was no evidence, other than the OC Regulation 31 Notice which positively asserted no push took place.

50. The Panel did not accept the OC's case that this may have been inadvertent contact with the Detainee. The direct evidence from witnesses, together with the admitted wider conduct of the OC against the same individual means we consider this allegation proven.
51. The Panel found all four standards alleged are breached, this was a case of the use of unnecessary force. The Panel found that the conduct of the OC in relation to Allegation 3 amounts to gross misconduct.

### **DECISION ON MISCONDUCT**

52. The Panel noted that in relation to all of Allegations the OC had admitted that his conduct amounted to Gross Misconduct.
53. The Panel found that taken as a whole, and save for Allegation 2, each of the individual Allegations amounted to Gross Misconduct.

### **DECISION ON OUTCOME**

54. Regulation 42 (14) procedure provides that when considering the question of disciplinary action,
- a. Must have regard to the record of police service of the OC.
  - b. May receive evidence from any witness whose evidence would, in their opinion, assist in determining the question; and
  - c. Must the OC, his police friend or lawyer, and the appropriate authority, an opportunity to make oral or written representations.
55. The Panel heard submissions from both representatives to the appropriate outcome. The Panel also had sight of the OC's service record as well as the character bundles provided.
56. The Panel had regard to the College of Policing Outcomes Guidance ("Outcomes Guidance") and reminded itself that in reaching its decision on outcome the Panel must have regard to the public interest, which includes the need to protect the public, to maintain confidence in the police service, and to declare and uphold proper standards of conduct and behaviour. References to paragraphs below are references to the Outcomes Guidance. The Panel approached its decision on outcome in three stages to determining the appropriate sanction:

Stage 1: Assess the seriousness of the misconduct.

Stage 2: Keep in mind the purpose of disciplinary action

Stage 3: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

57. In assessing the seriousness of the conduct found proven the Panel has had regard to four issues namely

- a. The Officer's culpability
- b. The harm caused by the misconduct
- c. The existence of any aggravating factors
- d. The existence of any mitigation factors

### ***Stage 1: Seriousness of misconduct***

58. The Panel firstly considered seriousness. The Panel considered that as a case involving violence and intimidation, as per paragraph 4.40 of the Outcome Guidance the conduct should be considered serious. The actions were persistent, the detained party was vulnerable, and the OC held a position of authority and trust as a Custody Sergeant, having regard to paragraph 4.41 of the Outcome Guidance.

#### *Culpability*

59. The Panel also considered the found conduct involved discrimination on the basis of race or presumed race; that is always to be considered serious as per paragraph 4.54 of the Outcome Guidance.

60. More broadly the Panel considered the found conduct was intentional, deliberate and targeted. The Panel noted the Detainee had a self-harm flag against him, and as such was vulnerable. The Panel also note the conduct continued into the following day by way of comments to another officer about what had occurred, and as such was persistent.

61. The Panel concluded that culpability was high as a result.

#### *Harm*

62. The Panel did not have a statement from Mr Malik, however the Panel noted that he was threatened with physical violence, and the victim of physical violence by a police officer while in police custody. The Panel concluded that there must be harm done to him as a result of this.

63. While the Panel did not consider that it was *serious* harm the Panel did consider that if members of the public came to know the facts of these case: that a vulnerable detainee was treated in this way, the Panel considered there would be reputational harm. In light of well publicised issues in other custody suites, the Panel noted that the scale and depth of local or national concern about the behaviour in question means there is real harm in this case.

64. The Panel also noted the internal confidence and the cultural norms in this custody suite were not to the standard required; it is of note that one of the witnessing PCs described the OC as “instantly short, blunt and dismissive; traits that I had become accustomed to when dealing with PS Thamanna”. For those reasons the Panel found harm to be high.

### *Aggravating Factors*

65. The Panel considered the non-exhaustive list of aggravating factors in the Outcome Guidance. The Panel were aware of the need not to double count, and so the only other aggravating factors taken into account were:

- The OC deviated from instructions as he did not complete use of force form
- There are multiple proven allegations and breaches of the Standards of Professional Behaviour

### *Mitigating Factors*

66. The Panel considered mitigating factors. While medical issues have been raised by the OC, the Panel was not been provided with any medical evidence despite requesting such evidence to be provided. The Panel could not therefore assess the credibility and relevance of any such medical issues, and so little weight could be attached to these issues.

67. The Panel accepted that the detainee in question was being rude and uncooperative. However, it was considered any possible provocation was not outside that which is ordinarily experienced by police officers while on duty, and none which offers any meaningful mitigation in this case.

68. There is little mitigation which adjusted the Panel’s view of the seriousness of this case. This was a high culpability and high harm case. The Panel did not find any of the mitigating factors caused this to be reassessed.

### *Personal Mitigation*

69. The Panel reviewed the character references provided. The Panel considered the case of *Salter v Chief Constable of Dorset Police* [2012] EWCA Civ 1047 that in cases such as these personal mitigation should have limited weight.

70. The Panel also considered the OC's disciplinary history namely a complaint was upheld against the OC by the IOPC in relation to discriminatory conduct against a disabled detainee in 2019 and the OC has previously been issued with a final written warning related to failures in record keeping and supervision in relation to use of force. Both of these are relevant to the facts of this case.

***Stage 2: Keep in mind the purpose of disciplinary action***

71. In considering the outcome, the Panel also bore in mind the purpose of the police misconduct regime which is threefold:

- (a) To maintain public confidence in, and the reputation of, the police service.
- (b) To uphold high standards in policing and deter misconduct.
- (c) To protect the public.

***Stage 3: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question***

72. The Panel considered the available outcomes in an ascending order of seriousness. The Panel did not consider a final written warning appropriate. The OC was already subject to one, for similar behaviour, and the Panel have no confidence that this would address the behaviour demonstrated. The found conduct is so serious that it would not address the three-fold purpose of the test.

73. The Panel did not consider a reduction in rank to be appropriate. There is no room in the Metropolitan Police for discrimination, and violence against detainees.

74. The Panel, in the circumstances, found that the appropriate proportionate sanction is that of Dismissal without notice.

75. No issues were raised under the Equality Act 2010, but the Panel considered the appropriateness of the outcome in line with the principle of proportionality and weighing the interests of the public with those of the officer. The Panel found that the outcome of dismissal without notice is a necessary and proportionate step taking into account the findings of fact made and the seriousness of the conduct concerned. The public expect police officers to appropriate towards those detained in their custody.

Publication - Barred List

76. The Panel invited the AA and OC's representative to comment on publication of this Decision. The Panel decided that this Decision is to be published.

77. In addition, the Panel directed that the OC's name should be included on the (College of Policing) Barred List.

Notification of Right of Appeal

78. A police officer has a right of appeal against any disciplinary finding or disciplinary outcome at a police misconduct hearing: Regulation 43(2)-(3) of 2020 Regulations.

79. The OC has a right of appeal against this decision to the Police Appeals Tribunal.