

**METROPOLITAN POLICE SERVICE**

**GROSS MISCONDUCT HEARING under the POLICE (CONDUCT)  
REGULATIONS 2012**

**IN THE MATTER OF:**

**[OFFICER NAME REDACTED]**

**DECISION IN RESPECT OF ABUSE OF PROCESS APPLICATION**

1. [OFFICER NAME REDACTED] was represented by Heather Oliver and the AA was represented by John-Paul Waite.
2. The panel was due to consider misconduct proceedings in respect of the above officer relating to historic claims of abuse within the context of his previous relationship with another officer, [COMPLAINANT NAME REDCATED].
3. In addition to the documents already provided for the main hearing the Panel was provided with additional material for the Abuse of Process argument which included a streamlined bundle of 60 pages containing the Investigating Officer's report dated 20<sup>th</sup> April 2018, which recorded the outcome of No Further Action"("NFA"). During the course of the hearing the Panel was provided with the rationale dated 18<sup>th</sup> April 2018 which underpinned the Hertfordshire Police decision to take No Further Action in respect of the criminal complaint lodged by [COMPLAINANT NAME REDCACTED] on 21<sup>st</sup> February 2018.
4. The substantive hearing was delayed, due to various issues mainly relating to documentation which was to be sought from the Family Court for which permission from the Family Judge was required.
5. Notwithstanding the above, the defence submitted an application to stay the proceedings, submitting that they constituted an abuse of process.
6. The panel met in order to consider the same.

7. The allegations faced by [OFFICER NAME REDACTED] are as follows:

1. On the 10th March 2013 a. You used unlawful force towards [COMPLAINANT NAME REDACTED] by kicking her whilst she was in bed such that she was forced off the bed on to the floor, and/or b. You called her a whore and/or a skanky bitch, or words to that effect

2. On 6th April 2013 you used unlawful force towards [COMPLAINANT NAME REDACTED] by putting your hands on her shoulders and pushing her forcefully

3. On the 17th June 2013 you used unlawful force towards [COMPLAINANT NAME REDACTED] in that:

a. You placed your hand or hands around her throat applying pressure in a tight hold, and/or b. You caused bruising and/or reddening to her neck, and/or

c. You caused her to blackout, and/or

d. You caused her to fall on to a bed rail with such force that her right arm was bruised

4. By reason of the matters above, individually or collectively, your behaviour did not meet the standards required by the Standards of Professional Behaviour set out in Schedule 2 to the Police (Conduct) Regulations 2012 as to Discreditable Conduct, in that you behaved in a manner which discredited the police service or undermined public confidence in it, whether on or off duty.

5. Your behaviour amounts to gross misconduct.

8. It may be prudent to set out the chronology of this matter, which is taken from the defence submissions:

2001-2013: The officer and [COMPLAINANT NAME REDACTED] were in a relationship.

[TEXT REDACTED]

[TEXT REDACTED]

10th March 2013: First allegation is said to have occurred.

6th April 2013: Second allegation is said to have occurred.

17th June 2013: Third allegation is said to have occurred.

February 2014: Allegations of harassment and malicious communications were made by [COMPLAINANT NAME REDACTED] against the officer to [NAME REDACTED], Professional Standards lead in Camden.

17th June 2014: The officer reported a verbal altercation at his home address to DPS.

26th November 2014: The officer wrote to DPS regarding allegations of assault being made against him by [COMPLAINANT NAME REDACTED], requesting that they be investigated. This was not disputed by the AA but the Panel notes that it was not provided with the original documentation.

27th January 2015: The officer reiterated his concerns about the assault allegations to [NAME REDACTED].

22nd February 2015: The officer made an application for a Child Arrangements Order in the Family Court.

4th June 2015: The officer wrote to DPS about the assault allegations.

16th October 2015: The officer wrote to DPS about the assault allegations.

29<sup>th</sup> October 2015: The officer wrote to DPS about the assault allegations.

30<sup>th</sup> October 2015: DPS responded to the officer.

14 March 2016: The officer wrote to DPS about the assault allegations.

16 March 2016: The officer wrote to DPS about the assault allegations. The DPS responded.

5 June 2016: [COMPLAINANT NAME REDACTED] applied for a non-molestation order in the Family Court.

24 January 2018: The officer made a criminal allegation of harassment against [COMPLAINANT NAME REDACTED].

21<sup>st</sup> February 2018: [COMPLAINANT NAME REDACTED] made a criminal allegation of assault against the officer to Hertfordshire Police.

26<sup>th</sup> February 2018: The Hertfordshire Police DPS submitted [COMPLAINANT NAME REDACTED] complaint and supporting material to the Metropolitan Police DPS for triage.

2nd March 2018: [COMPLAINANT NAME REDACTED] had a meeting scheduled with Hertfordshire Police

9th March 2018: Statement purporting to be made by [COMPLAINANT NAME REDACTED] alleging (inter alia) assaults is dated (though not signed). Although [COMPLAINANT NAME REDACTED] states that she did not recognise this draft statement the level of detail is such that it could only reasonably have come direct from her

18 April 2018. The Criminal Investigation into [COMPLAINANT NAME REDACTED] complaint was closed by Hertfordshire Police with No Further Action recorded

20 April 2018 The Met DPS investigation into [COMPLAINANT NAME REDACTED] complaint was closed with No Further Action recorded.

5 July 2018: Family Court proceedings.

30 August 2018: Family Court proceedings.

December 2020: Family Court proceedings.

13 August 2024: A DPS investigation was reopened into these historic allegations. The AA was unable to provide any explanation as why this new investigation was undertaken.

17 March 2026: First listing of the misconduct hearing for the officer.

9. It is argued by the defence, based upon a number of factors including the fact that the officer previously took action in order to encourage the DPS to pursue an investigation against him, which they declined; the fact that a criminal investigation by Hertfordshire Police was instigated against the officer making reference to accusations of assault which was notified to the DPS and both matters resulted in an NFA in 2018; that there has been significant delay and passage of time meaning that the officer could not have a fair hearing and would have lost the opportunity to gather evidence in his defence and also will suffer from memory loss over the passage of time; It is further submitted that if the proceedings were within a criminal jurisdiction, that notwithstanding recent amendments to the law, that they would be time-barred in any event. That it will be unconscionable for the present proceedings against the officer to continue in all the circumstances.

10. The AA concede that the officer of his own volition contacted the DPS in 2015 and invited them to pursue an investigation against him but state that this was not possible unless they were advised of criminal proceedings against him or [COMPLAINANT NAME REDACTED] or another officer made a direct complaint to them. They further concede that the investigation against [OFFICER NAME REDACTED] in 2018, resulting in the case being NFA'd was "defective". Nonetheless, it is submitted in the light of the public interest in offences of the nature set out in the allegations, that it is nonetheless justified that the current proceedings are heard and litigated against in a public forum.
11. The Panel note that the current case is brought under the Police (Conduct) Regulations 2012. Regulation 9 states that, "*proceedings under these regulations shall proceed without delay*" and regulation 19 which requires the AA to determine whether the officer concerned has a case to answer in respect of misconduct or gross misconduct "as soon as practicable" upon receipt of the investigators written report.
12. The panel have regard to Home Office Guidance (issued November 2012) which includes various references to the need for complaints to be dealt with in a timely manner and for the avoidance of delay, for example at paragraph 2.100, for cases to be dealt with in "a timely, proportionate, fair and effective way such as will command the confidence of police service and the public".
13. The panel note appropriate case law and in particular, the case of;

*R v Chief Constable of Devon and Cornwall Constabulary, ex parte Hay* [1996] 2 All ER 711, Moses J drew a distinction between specific prejudice and inherent prejudice arising from delay, and held that both were applicable:

"in *ex parte Hay*, as I have said, Sedley J was concerned with an assertion by the police officer of specific prejudice. That, in my view, will not always be necessary. It is possible to conceive of a case where the evidence remains untainted because, for example, it is in writing or

admitted, but where the delay is so great and so unjustifiable that it may be said to give rise to injustice to the accused just as in *ex parte Merrill*. An unjust trial is an unfair trial. An unjust disciplinary hearing is an unfair hearing. There is no useful distinction between those concepts in the context of this type of case. The prejudice may be inherent in the delay itself..." [para. 39]. In *Redgrave*, no assertion of specific prejudice was made, only of inherent prejudice.

At paragraph 40: "the correct approach is to consider whether a fair or just hearing is possible in the light of such inexcusable delay and serious prejudice as the officer may establish. All delay will cause anxiety and possibly worse to an officer awaiting a hearing, but not all delay will lead to a conclusion that a fair hearing is no longer possible". The judgment advises disciplinary boards to focus on the "concept of the possibility of a fair hearing".

14. Applying the law, regulations and concepts outlined above and also set out in a plethora of other cases, the panel make the following findings.
15. The panel need to consider whether a fair or just hearing can take place in light of any significant departure from the prescribed statutory framework in this case.
16. The panel firstly note the significant delay in this case being prosecuted. It is possible to argue that the delay commenced when the officer is said to have contacted the DPS on 26 November 2014 advising them that allegations of assault were being made against him and requesting that they be investigated. The Panel notes that a copy of this email was unavailable. A further email of 4 June 2015, from the officer to DPS which was provided to the Panel makes it clear that these assault allegations were made in the context of a Family Court hearing held in April 2015. The DPS declined to investigate these matters of their own volition and instead, indicated that there would need to be a criminal investigation led by Hertfordshire Police; a complaint made to them by [COMPLAINANT NAME REDACTED] or that the officer would need to invite a

line manager to refer his case to them via an MM 1 Form. The AA contended that the DPS was under no obligation to open an investigation. The Panel directed itself that it did not need to determine whether this was a reasonable decision on behalf of the DPS but found that the DPS was undoubtedly on notice that allegations of assault had been made against the officer by [COMPLAINANT NAME REDACTED]. If 4<sup>th</sup> June 2015 is taken as the starting point, it would mean that the present proceedings were commenced after a delay of in excess of 11 years.

17. The panel however find that it is safer to utilise the date of 26 February 2018, being the date that [COMPLAINANT NAME REDACTED] complaint and the supporting evidence was first reported by Hertfordshire Police to the DPS. Even taking that date as being the start date for the DPS commencing proceedings, means that there has been a delay of an excess of 8 years.

18. It may be appropriate at this juncture for the panel to consider the position that [OFFICER NAME REDACTED] would have faced if this related to criminal proceedings. At the appropriate time, in 2018, the time limit in the prosecution of a case of common assault and battery was a mere 6 months. The issue was debated by Parliament in 2021 and an amendment to the Criminal Justice Act 1988 was made under the Police, Crime, Sentencing and Courts Act 2022 which allowed 6 months to pass from the point of a report of a domestic assault, whilst overall extending the time limit to bring a prosecution for such an offence to 2 years post-offence. The panel notes that Parliament, having turned its mind to this issue, recognised the necessary balance between fairness to victims of abuse and fairness to the accused in cases of minor (as in summary only, domestic assault). The panel note that the offences for which [OFFICER NAME REDACTED] was investigated and NFA'd were of this nature. The panel note in the light of the same that if the matters before them were being considered in the context of a criminal prosecution, that the time limit would have expired by mid-2015.

19. The panel considered whether any new evidence in this case had been provided after 2018. The panel had had sight of the unsigned witness statement

prepared by [COMPLAINANT NAME REDACTED], in connection with the Hertfordshire Police investigation in 2018. Whilst it notes [COMPLAINANT NAME REDACTED] indicates that she has no recollection of making a statement, the statement contains 5 pages of detail that can only have been provided by her. The Panel notes that there was an appointment scheduled with [COMPLAINANT NAME REDACTED] by Hertfordshire Police on 2<sup>nd</sup> March 2018. That draft statement was before Hertfordshire Police when they decided to NFA the criminal allegations. Whilst redacted, there is mention of three incidents of domestic violence and the unredacted statement details two of the three dates that are the subject of the current allegations.

20. In turn, the rationale for Hertfordshire's decision was sent to and was before the DPS when they made their decision. This stated:

*“There is an allegation of common assault which is said to have occurred in June 2013. I have seen no evidence to support this allegation. There is text contact at this time and I acknowledge the IP says, “you strangled me” and the male doesn’t respond with a denial. This doesn’t necessarily indicate it happened as the IP states. In any event this falls far outside of the time limit for prosecution as no injury was sustained..... I do not believe we have sufficient evidence upon which this matter can be progressed. I have considered whether it is necessary and proportionate to bring the suspect in for interview but my view is it is not. The evidence speaks for itself and having read the suspect’s many emails it is quite clear what he would say if given the opportunity and that is that he is acting reasonably in trying to gain access to his children”.*

21. Flowing from the above, the DPS had the opportunity to fully investigate the allegations. The Panel was not provided with a rationale for not taking any further action in respect of the 2018 allegations. The Panel is satisfied that the DPS was provided with details of assault allegations in advance of reaching its NFA decision.

22. The Panel was content that the factual matrix available to the DPS in 2018 was materially unchanged from the factual matrix on which the 2024 allegations are brought. In short, in reaching its NFA decision in 2018, DPS were fully cognisant of the fact that the allegations made against [OFFICER NAME REDACTED] related to both claims of common assault and harassment.
23. In considering appropriate case law, the panel note the tests to be applied to an application to stay proceedings based upon an abuse of process as outlined in cases including **Merrill and R v (Redgrave) Metropolitan Police Commission [2002] EWHC 1074** consistently stress the importance of procedural fairness; the requirement for proceedings to proceed expeditiously; for any delay to require justification from the investigator and the longer the delay, the heavier the burden of justification; the fairness to all parties including the subject officer; the prejudice to the officer which may be inherent in the fact of delay. The delay in Redgrave was just 15 months whereas the delay in this case has been found to amount to approximately 8 years.
24. In addition, there is a significant additional feature in this case in that [OFFICER NAME REDACTED] has already been investigated for the assault allegations both at a criminal level and a misconduct level in 2018. Both resulted in the matters being NFA'd.
25. The panel note the main case relied upon by Mr Waite, being the **Professional Standards Authority for Health and Social Care v General Pharmaceutical Council [2024] EWHC 3005**. However, the panel find that there is a fundamental distinction between the facts in that case and in the case before them. In the GPC case, the registrant had erroneously been told that no further action would be taken in respect of the complaint against him before proceedings were brought against him some 2 years later. In this case however [OFFICER NAME REDACTED] was not informed of the decision erroneously, the complaint against him was fully investigated by the DPS and only following the same was he notified that it was to be concluded with no further action. The panel find this to be a fundamental difference in the cases and therefore find that the GPC case has little reference to its decision-making in this case.

Further to that, the delay in the GPC case was 2 years compared to 8 years in the current case which is a further significant distinction.

26. The Panel note from the College of Policing Guidance on outcomes in Police Misconduct Proceedings that it is stated at 4.82:

*“In cases where the misconduct occurred several years prior to the meeting or hearing, consider the outcome by reference to the standards of the time rather than current attitudes and standards. Give due account to the officer’s conduct in the intervening years – for example, whether they performed their duties to a high standard”*. The Panel notes that since the time when the allegations were said to have occurred and the original consideration of the same in 2018 that there has been a significantly heightened public interest in the conduct of police officers and issues of violence against women and girls.

27. The panel notes that in the intervening period from the time that the allegations are said to have occurred, most recently 2013, that there has been no similar conduct alleged and no other misconduct proceedings brought against [OFFICER NAME REDACTED] in any event. The Panel finds that the allegations against [OFFICER NAME REDACTED], whilst still serious and criminal in nature, at their height amount to common assault or battery. Applying the time-barring standards at the time (six months), they would have been time barred by the time they were raised by [COMPLAINANT NAME REDACTED] in the context of the Family Court hearing in 2015. Even applying the later 2022 changes which extend the consideration periods to two years they would have been time barred by the time they were raised by [COMPLAINANT NAME REDACTED] with Hertfordshire Police.

28. Having regard to the totality of the matters referred to above, summarised as being significant delay; the prospect of double jeopardy; the fact that the DPS fully investigated this matter in 2018 and concluded that it warranted no further action; the fact that there is not significant new evidence available now which was not before both the criminal and DPS decision-makers in 2018; finding that

[OFFICER NAME REDCATED] would be significantly prejudiced in seeking to defend the allegations now after such a significant passage of time caused by the delay and applying appropriate Home Office guidance and case law referred to above, the panel concludes that it would be inherently and fundamentally unfair and unjust for these proceedings against [OFFICER NAME REDACTED] to continue.

29. The panel therefore accedes to the stay application before it and dismisses the allegations against [OFFICER NAME REDACTED] accordingly.

**Maurice Cohen**  
**Legally Qualified Chair**

**Detective Superintendent Darren Mercer**  
**Assessor**

**Clive Manning**  
**Independent Panel Member**

**20 March 2026**