

IN THE MATTER BEFORE THE MISCONDUCT HEARING
UNDER THE POLICE (CONDUCT) REGULATIONS 2020 (AS AMENDED)

COMMISSIONER FOR THE METROPOLITAN POLICE SERVICE

Appropriate Authority

- V -

PS LEO BOATENG (P232269)

The Officer

OUTCOME REPORT

Unless otherwise stated all references to:

“the Regulations” is to the Police (Conduct) Regulations 2020 (SI 2020/4) (as amended by the Police (Conduct) (Amendment) Regulations 2024 (SI 2024/521) .

“HOG” is to the Home Office, Conduct Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing (v.1.0) (5 February 2020)

“Outcome Guidance” or “OG” is to the College of Policing, Guidance on outcomes in police misconduct proceedings (2023).

In accordance with regs. 41(15) to (17); 42(1), (3) and (13) and 43 of the Regulations the following outcome report and decisions as issued.

The Panel

1. The Panel consisted of Chair Sian Chacksfield and IPMs Purnima Uppal and Vince Canning.

Anonymity and reporting restrictions

2. For the purposes of the proceedings the Chair decided that cyphers should be used:

[REDACTED] was given the cypher “Ex-PC A”, and

[REDACTED] was given the cypher “Officer B”.

3. This decision was reached in accordance with reg. 39(3)(c), (4) and (7)(f) of the Regulations and with the factors under paras. 11.84 to 11.87 of the HOG in mind. Ex-PC A was the victim of a sexual offence and benefitted from the presumption of lifelong protection from publication under s.1 of the Sexual Offences (Amendment) Act 1992. This includes the publication of details that could allow for jigsaw identification. Officer B was linked to a serious and reputationally highly damaging sexual allegation. This allegation was not before the Panel and Officer B’s evidence was uncontested. .

4. [REDACTED].

5. The hearing remained open to the public with reporting restrictions to protect anonymity and other matters. No challenges were raised by interested third parties to Ex-PC A’s anonymity. Officer B’s anonymity and the Officer’s health details were raised in open session during the hearing, with no objections raised.

6. After the Panel’s decision on the proven allegations and outcome, the Chair agreed to maintain the anonymity for Ex-PC-A and Officer B, and to keep in place the reporting restriction on the Officer’s health in accordance with regs. 33 and 43(10) of the Regulations.

7. The Chair had Articles 8 and 10 under Schedule 1 to the Human Rights Act 1998 in mind when the decision was made and reviewed.

Law and Guidance

8. The standard of proof to be applied is on the balance of probabilities meaning that the allegation is more likely than not to have occurred [reg. 41(15) of the Regulations].

9. Irrespective of the seriousness of the allegation there is no variation of the standard of proof [The *HOG* at paras. 9.10 and 9.11; see also *R (oao IPCC) v Hayman* [2008] EWHC 2191 (Admin) 2008 WL 2872430]
10. In *Hayman* Mitting J reviewed the authorities on the application of the civil standard of proof in the context of serious allegation and police disciplinary proceeding [at 16, 18 and 19]. In essence, it is for the Panel to review the evidence applying common sense and their experience taking into account any inherent probabilities; but still ultimately applying the civil standard of proof.
11. The burden of proof remains on the AA to prove an allegation.
12. Although the conduct under the allegations is or could be defined under the criminal law, the decision before the Panel remains whether or not there has been a breach of the Professional Standards of Behaviour that amounts to misconduct or gross misconduct [see regs. 2(1) and 42(15) and (16) of and Schedule 2 to the Regulations].
13. Misconduct: “...means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.” [Reg. 2(1) of the Regulations]
14. Gross misconduct: “...means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal...” [Reg. 2(1) of the Regulations]
15. The relevant professional standards are:
 - (a) Honesty and Integrity – Police officers are honest, act with integrity and do not compromise or abuse their position (allegation 2).
 - (b) 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 (allegation 1).

[Schedule 2 to the Regulations]

HOG

16. The standard of proof is reiterated as the civil standard and there is no sliding scale [The *HOG* at paras. 9.10 and 9.11.]

17. In relation to allegation 1 the standard alleged to be breached is Discreditable Conduct, the *HOG* states:

“In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off-duty... In all cases it must be clearly articulated how the conduct... discredits the police.

...

“As a result of the nature of the office of constable, a police officer is always subject to the Standards of Professional Behaviour even when off-duty. As such police officers should not behave in a manner that discredits the police service or undermines public confidence at any time...In determining whether a police officer’s off-duty conduct discredits the police, the test is not whether the police officer discredits themselves but the police as a whole.” (emphasis added) [2.15 and 2.18]

Rape – definition and law

18. As allegation 1 describes the conduct as rape the Panel must be satisfied that the conduct meets the accepted definition of rape. This is found under s.1(1) of the Sexual Offences Act 2003 (SOA) being:

- (a) A person (A) intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,
- (b) B does not consent to the penetration, and
- (c) A does not reasonably believe that B consents.

Consent

19. Consent is defined as, “a person consents if he agrees by choice, and has the freedom and capacity to make that choice” [s.74 SOA].

20. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents [s.1(2) of the SOA].

21. Once it is proven the Officer has done the relevant act then consent becomes an element to consider.

22. The evidential reverse burden of s.75 of the SOA and the conclusive presumptions under s. 76 of the SOA in relation to consent do not strictly apply in these proceedings as these are not criminal proceedings. However, they are factors that can consider when assessing whether it is reasonable to determine there was no consent or no reasonable belief in consent.

23. In law, there is an important difference between consent and submission. Consent can be given enthusiastically or with reluctance, but it is still consent. But when a person gives in to something against their free will, that is not consent but submission. It is for you to decide where the line between consent and submission is to be drawn in this case. To do this you have to consider all of the evidence. [see *R v Doyle* [2010] EWCA Crim 119 per Pitchford LJ at para. 21]

24. When two people are in or were in a long-term relationship, there may be elements of compromise between them in relation to any number of things, including their sexual relationship. And sometimes a partner who is not feeling enthusiastic may nevertheless reluctantly give consent to sex. [Pill J approved in *Mohammed Zafar Unreported, June 18, 1993*: ‘A female partner may not particularly want sexual intercourse on a particular occasion, but because it is her husband or her partner who is asking for it, she will consent to sexual intercourse. The fact that such consent is given reluctantly or out of a sense of duty to her partner is still consent.’ cited in *Doyle* per Pitchford LJ at para. 15]

Judicial College, The Crown Court Compendium Part 1: Jury and Trial Management and Summing Up (October 2025)

25. This provided further Guidance to the Panel on the myths and stereotypes around rape and assistance with directions in sexual offences cases.

Honesty and integrity

26. The Panel applied the test under *Ivey v Genting Casinos (UK) Ltd (trading as Crockfords)* [2017] UKSC 67 per Lord Hughes SCJ at para. 74:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

27. At the time of the conduct the College of Policing's Code of Ethics 2014 was in force and under the honesty and integrity standard gives the example of when this standard is met, when an officer, “do[es] not knowingly make false, misleading or inaccurate oral or written statements in any professional context”.

Outcome Guidance

28. The Panel had regard to the *Outcome Guidance*, but it does not override the discretion the Panel have to assess each case on its individual facts [OG at 1.6] and [HOG at 11.118].
29. The process set out under the *Outcome Guidance* is a guide where considerations may overlap and is not a structure approach which must be followed. The Panel must consider the substance of the matters contained in the *Outcome Guidance* when considering the case

before it. [see *R (on the application of Kristina O'connor) v Panel Chair (Police Misconduct Panel)* [2025] EWCA Civ 27 per Davies LJ at paras. 41 to 43.]

30. The *Outcome Guidance* broadly sets out the three stages to determining the appropriate sanction:

1. assess the seriousness;
2. keep in mind the purpose of imposing sanctions; and
3. choose the sanction that most appropriately fulfils the purpose of the proceedings and seriousness of the conduct. [4.2] [see also *Fuglers LLP & Ors v Solicitors Regulatory Authority* [2014] EWHC 179 (Admin)]

31. In assessing whether the conduct amounts to misconduct or gross misconduct the Panel did consider Stage 1.

Stage 1

32. Under stage 1, the seriousness of the proven conduct should be assessed with reference to:

- (a) the officer's culpability;
- (b) the harm caused;
- (c) aggravating factors; and
- (d) mitigating factors. [OG at 4.3]

Officer culpability

33. The greater the intentional targeting, planned or deliberate nature of the conduct the greater the culpability and this includes if the Officer could "reasonably have foreseen the risk of harm". [OG at 4.10- 4.11]

34. Where the conduct found proven is "criminal in nature" this can be taken into account when deciding on culpability. [OG at 4.23]

35. The *Outcome Guidance* accepts that some off-duty dishonesty can still be significant. If found in this case for allegation 2 the seriousness of an Officer potentially destroying or at least concealing a source of potential evidence in a rape investigation would warrant the Panel to consider the dishonesty to be of significant relevance to the profession.

36. Operational dishonesty can include deliberately misleading an investigation being conducted by the police. [OG at 4.28]
37. Where the conduct amounts to violence against women and girls (VAWG) there will always be a high degree of culpability with the likely outcome being severe. [OG at 4.62]
38. Both allegations would fall under categories considered very serious if proven. And specifically in relation to operational dishonesty the *Outcome Guidance* quotes Burnett J cited with approval in *Salter v The Chief Constable of Dorset* [2012] EWCA Civ 1047 per Maurice Kay LJ (VP) at 17, specifically:
- “[...] the correct approach for any decision maker is to recognise that a sanction which results in the officer concerned leaving the force would be the almost inevitable outcome in cases involving operational dishonesty. ...”
- [OG at 5.2 and 5.3; see also *Salter* at para. 21 and *Bolton v Law Society* [1994] 1 WLR 512]

Harm

39. Harm is assessed after the determination of the facts and if the conduct breaches a standard of professional behaviour being either misconduct or gross misconduct [OG at 4.72].
40. The types of harm are listed under para. 4.64 of the *Outcome Guidance* but in these proceedings includes:
- (a) the effect on the IP as well as the wider community; and
 - (b) the harm likely to undermine public confidence.
41. Harm is assessed on the Panel’s knowledge and experience [OG at at 4.71].
42. The Panel can consider the depth of national or local concern, but objective evidence of harm should be distinguished from subjective media commentary [OG at 4.70].

Aggravating factors

43. The *Outcome Guidance* lists factors that can be considered aggravating so to indicate a higher level of culpability or harm. The relevant ones considered in this case were:
- (a) malign intent such as sexual gratification (allegation 1);
 - (b) abuse of trust, position, powers or authority (allegation 1);
 - (c) concealing wrongdoing in question and/or attempting to blame others (allegation 2);
 - (d) serious psychological impact on the victim (allegation 1);
 - (e) any form of violence against women and girls whether on-duty or off-duty (allegation 1);
 - (f) scale or depth of local or national concern about a particular issue (both allegations); or
 - (g) leadership responsibility, where there is an expectation of acting as a role model (both allegations). [*OG* at 4.76]

Mitigating factors

44. This is different to personal mitigation as it goes to the actual conduct [*OG* at 4.67].
45. A non-exhaustive list of mitigating factors is set out at para. 4.81, but only one arose in the course of proceedings: misconduct confined to a single episode or brief duration (allegation 1) [*OG* at 4.81].

Stage 2

46. The purpose of the misconduct proceedings take precedence and are:
- (a) to maintain public confidence in and the reputation of the police service;
 - (b) to uphold standards in policing and deter misconduct; and
 - (c) to protect the public. [*OG* at 2.3]

Stage 3

47. The Panel in considering outcomes must look at the least severe option that “adequately deals with the issues identified whilst protecting the public interest” [*OG* at 2.8].
48. Personal mitigation must be considered after assessing the seriousness of the conduct [*OG* at 4.5]. However, there might be an overlap between mitigating factors and personal mitigation depending on the conduct before the Panel.

49. The impact of personal mitigation is limited as the aim of these proceedings is the protection of the public and public confidence in the police, and not the punitive sanction of the Officer. [*OG* at 4.4, 6.1 and 6.5; see also *Bolton v Law Society* [1994] 1 WLR 512 and *Salter*]
50. This applies not only to cases of honesty and integrity but all forms of gross misconduct. [*R (Williams) v Police Appeals Tribunal & Commissioner of Police of the Metropolis* [2016] EWHC 2708 (Admin), [2017] ICR 235]

Right to a fair trial and the right to privacy

51. With the Chair's duty to consider if any question should be put to a witness [Reg. 41(10) of the Regulations] and the Panel's wider role in putting questions to witnesses and the Officer the balance between the Article 8 rights of the Ex-PC A and the Officer's Article 6 rights needed to be carefully considered.
52. The Supreme Court in *R (on the application of Daly) v HM Advocate* [2025] UKSC 38 per Reed LJ, considered the balance between victim rights and defence rights in criminal proceedings, but aspects of the decision had direct relevance to these proceedings.

Status of Ex-PC A

53. For the purpose of these proceedings and the Regulations the Ex-PC A is an "interested person" and not a complainant. Only a member of the public can make a complaint and be defined as a complainant. As Ex-PC A was a serving police officer at the time allegation 1 arose her status falls under the definition of an "interested person". [see ss.12(1), 21(2)(c) and 29(2) of the PRA and Reg. 2 of the Regulations].

Procedural Background

54. The Officer was notified on 29 January 2023 of the gross misconduct investigation against him in relation to the rape allegation.

55. On 9 May 2025 the Officer was served with a Reg. 30 notice.
56. A pre-hearing was held on 10 July 2025 at which anonymity for the Complainant was not opposed by the parties and the hearing could be held in public.
57. A hearing was held between 15 to 19 December 2025. At the hearing there was an agreed Hearing Bundle (HB) and additional evidence was admitted:
- (a) a second statement from then t/Insp Augustine ANYAEGBUNA,
 - (b) a Telefonica call data request report for CSP ref: [REDACTED] (Comms data),
 - (c) The Officer's character bundle with 6 statements, and
 - (d) a document containing WhatsApp screenshots from the Officer's phone.
58. The following live witnesses were heard:
- (a) DC Mariama Connell,
 - (b) Ex-PC A,
 - (c) then t/Insp Augustine Anyaebguna
59. The Officer also gave evidence twice, the second time to address new evidence that was admitted late in the hearing.
60. LQA advice was mainly provided in two hearing advice notes dated 12 and 18 December 2025 respectively.

Allegations

61. The following allegations of gross misconduct are alleged:

Allegation 1

On the 20th of November 2022 you raped Ex-PC A, that is you intentionally penetrated the vagina of Ex-PC A with your penis, she not consenting to the penetration and you not reasonably believing that Ex-PC A consented.

Allegation 2

1. On 28th January 2023 you made/received calls using your personal Samsung Galaxy smart mobile phone handset IMEI ending number [REDACTED] with a mobile number ending [REDACTED], calls being made/received as follows:
 - a. At 1514 hours you called telephone number 101 for 9 minutes and 10 seconds
 - b. At 1940 hours you called a telephone number ending in [REDACTED] attributed to your line manager Inspector Augustine Anyaegbuna for 9 minutes and 30 seconds
 - c. At 2036 hours you called a telephone number ending [REDACTED] attributed to DS Damian Jones of the Directorate of Professional Standards (“DPS”)
 - d. At 2039 hours you were called by DPS investigators on your mobile number ending [REDACTED] and told that you were required to attend Brixton Police Station, as well as being informed that a serious sexual assault allegation had been made against you

2. On 28th January 2023 at or around 2055 hours to 2100 hours you changed your phone handset from a Samsung Galaxy “smart phone” handset IMEI number ending [REDACTED] to a Chiva “burner” handset with an IMEI number ending [REDACTED] but keeping the same mobile telephone number ending [REDACTED]

3. On the 28th January 2023 at around 2230 hours you voluntarily attended Brixton Police Station where you were then arrested for an allegation of rape at 2234 hours; a Chiva mobile phone with an IMEI number ending [REDACTED] exhibit NMS/1 sealed as A26239688 was seized from you

4. On 29th January 2023 you attended an interview part of an investigation into the sexual allegation being made by Ex-PC A when you told interviewing officers:
 - a. That your Samsung personal mobile phone was broken, or words to that effect, and/or
 - b. That you did not know where your Samsung personal mobile phone was, or words to that effect, and/or
 - c. That your Samsung personal mobile phone was in your police locker, or words to that effect

5. On 29th January 2023 you attended an interview part of an investigation into to the sexual allegations being made by Ex-PC A when you told interviewing officers
 - a. That you had the day before sent yourself emails from your personal email account to your work email account screenshots of messages passed between you and Ex-PC A, and
 - b. That the reason for so doing was that you had a feeling that something was going to happen, or words that effect

6. As set out above, at paragraphs 1 to 4 above, you deliberately sought to hinder and/or impede the investigation into the allegation of a serious sexual assault that you knew you would be facing, in relation to messages that were or might have been on the Samsung Galaxy smart phone handset, by

- a. Changing your handset from the Samsung Galaxy handset to the Chiva handset but keeping the number ending [REDACTED]
- b. By bringing the Chiva handset to Brixton Police Station with the number ending [REDACTED] when you attended there on 28th January 2023 at around 2230 hours, and/or
- c. Falsely claiming that your personal Samsung Galaxy mobile handset was broken, and/or
- d. Falsely claiming that you did not know where your personal Samsung Galaxy mobile handset was, and/or
- e. Falsely claiming that your personal Samsung Galaxy mobile handset would be in your police locker

7. As set out in paragraph 5 above

- a. What you told the investigating officers was a deliberately false account, as you did not send such emails with the messages until after the interview on 29th January 2023, you not sending them until 30th January 2023 at 1954 hours, and/or
- b. The false account you gave to the investigating officers in interview on 29th January 2023 was to try to explain how it was that you had access to messages sent/received on your Samsung Galaxy mobile phone when at the time you were then claiming in the interview on 29th January 2023 that your Samsung Galaxy was not available to you

Breaches of Standards

1. By reason of the matters above in Allegation 1 above, your behaviour did not meet the standards required by the Standards of Professional Behaviour set out in Schedule 2 to the Police (Conduct) Regulations 2020 as to Discreditable Conduct, namely you behaved in a manner, whether on or off duty, which brought discredit on the police service and/or undermined public confidence in policing

2. By reason of the matters above in Allegation 2 above, either individually or collective, your behaviour did not meet the standards required by the Standards of Professional Behaviour set out in Schedule 2 to the Police (Conduct) Regulations 2020 as to Honesty and Integrity, namely that you were dishonest and/or did not act with integrity

Accounts and evidence- Allegation 1

62. It was uncontested that on 22 September 2022 Ex-PC A had initiated contacting the Officer to begin the relationship via a colleague, PS REID. They exchanged messages and met in public once for a drink in the Kings Cross area on 2 October 2022 [ROTI at 179-HB, Ex-PC A's first account at 140-HB].
63. It was uncontested that they rarely met at work due to being on different teams and shift patterns and they only met outside of work on three further occasions. Each one was at Ex-PC A's home. On each occasion they engaged in consensual sexual activity and penetrative sex.
64. The first occasion they met was on 15 October 2022 at Ex-PC A's home. Ex-PC A's account is that the Officer very quickly sought to engage in sexual activity. She was surprised by his forwardness, but all the sexual intercourse and activity was consensual. The Officer's account is that sexual activity was quickly engaged in once he arrived but says this was initiated by Ex-PC A. [ROTI at 180-HB and Ex-PC A's first account at 140-HB]
65. The second occasion was on 5 November 2022, again at Ex-PC A's home and they engaged in consensual sexual activity and intercourse multiple times (4) during the visit. During the third time Ex-PC A asked the Officer to stop so she could go to sleep. Her account is he then suggested he could continue sexual activity while she was asleep. At which she clearly told him that was unacceptable. They then went on to have sexual intercourse. [Ex-PC A's first account at 141-HB]
66. After the fourth time Ex-PC A tried to get up to leave for a party. The Officer wanted to have sex for a [REDACTED] time. The Officer got on top of her, she said "no" and she had to push him off. The Officer did not engage in any non-consensual sexual activity on that visit. [VRI at 299-300- HB]
67. On the third, and last, occasion the Officer was invited over by Ex-PC A on 22 November 2022. The Panel saw messages where Ex-PC A was expecting the Officer and messaging him as he made his way to her home. [MJC/3 at 152-169-HB]

68. The Officer's account is that he met her at the front door wearing a dressing gown and some light clothing. Considering the sexual nature of the relationship that had developed over the previous two visits and the fact it was in the early morning hours the Panel did not see anything unusual in this.
69. Both accounts are they went to Ex-PC A's bedroom, briefly spoke and engaged in sexual intercourse. During his evidence the Officer described how he was in the process of undressing when Ex-PC A pulled him off balance as she was trying to get him into her bed.
70. [REDACTED]
71. From this point the accounts of Ex-PC A and the Officer begin to diverge.
72. Ex-PC A asked to stop because the sex was painful and uncomfortable and made the Officer aware of this reason [VRI at 253-HB].
73. In contrast the Officer says the sex concluded on his ejaculation and [REDACTED]. At which point they took a rest. [ROTI at 203-HB]
74. They both stopped the intercourse and were lying side by side. From this point the accounts diverge.
75. The Officer outlines an argument they had. Both parties agree there was an argument on this visit, and it centred around Ex-PC A asking the Officer about an old YouTube video and his relationship with other police officers.
76. The Officer was so annoyed by this argument that he turned away from Ex-PC A and had made the decision to end the relationship- as it was- and went to sleep. On waking in the morning, he gave two different accounts. In interview he said he dressed and left with the Ex-PC A walking him to the front door and kissing him goodbye. [ROTI at 207-HB]
77. During the hearing the Officer did agree there was sexual intercourse a second time during the visit, in the morning just before he left.

78. He denied there was a second distinct occasion of sexual intercourse on this visit where [REDACTED], where she asked him to stop, where he replied “just take it” and continued until ejaculation for 15-20 minutes [ROTI at 207 and 208- HB 1832 and 1954, Reg 31, Officer’s evidence].
79. This starkly contrasts with Ex-PC A’s account. She describes a pause after the first sexual intercourse when she had told the Officer it was painful. They were resting side by side when the Officer began to engage in sexual touching. [VRI at 253-HB]
80. Ex-PC A recalls moving [REDACTED] to facing away from the Officer. She does not recall any involuntary force being applied to her to move her into this position. At this point they engaged in penetrative sexual intercourse. Ex-PC A says she did not want to have sex again at this point but she “... did allow it to start” and did not vocalise any dissent. [VRI at 253-HB]
81. As this progressed Ex-PC A began to feel discomfort again and called out “Stop” two or three times and reached back to place her hand on the Officer’s hip and to push against it. She accepts that from her position it was difficult to exert much force but she vocalised her wish at the same time. It met with a response of “Just take it”. [VRI at 257-259- HB]
82. In particular her account is:

“[Q] ... when you asked him to stop, tell me exactly what words you used.

[A] Just the word, “Stop”. I remember saying it, like two or three times. I didn’t shout or say it, like, particularly loudly or forcefully but, like, I knew he heard that I said it because, well, one, there was no one else in the room, it was quiet and, erm, yeah, he acknowledged I said it by saying, “Just take it”.

...

[Q] Describe to me how you pushed, you was trying to push him away.

[A] So, I just reached with one of my hands, Like, I took my hand off the bed and, like, reached behind me and [REDACTED], pushed backwards but not, like, in a way that

actually moved him back. As I say, he's, like, quite muscly, like, he- me pushing him lightly would do nothing, ...

...

[Q] – for you, how much force did you- did you push?

[A] ... from the position I was in, like, it's – it would be difficult for me to have used a lot of force anyway. Erm, like, definitely, like, I would say it wasn't a lot of force but enough that I know he would have felt that I was pushing backwards against him, like, I wasn't in any way trying to pull him, or like, I wasn't just holding him, like, I was clearly, like, pushing him backwards...

....

[A] Erm, so that was just followed by the “just take it”, and then nothing else was said after that. I didn't say anything again, I just... (shrugs).”

[VRI at 257-259- HB]

83. When asked how long the sexual intercourse had continued for Ex-PC A estimated it to be 15-20 minutes [VRI at 261-HB]. It ended once the Officer had ejaculated [VRI at 263-HB].
84. Ex-PC A did agree they argued about the Officer's relationship with other officers as well as the old YouTube video showing the Officer involved in an altercation whilst on holiday abroad. Ex-PC A was taken aback at the time by the Officer's reaction as she had not seen the video at the time and did not personally place much importance in the topics. In cross examination she admitted having later seen the video she could understand the Officer's reaction.
85. They then went to sleep and when they awoke later, they did have sexual intercourse. Ex-PC A recalls she did not want to have sex but accepted it as acquiescence was easier than disagreeing. She repeated her assertion that the Officer would often persist in asking for sex if it was initially rejected.
86. More broadly Ex-PC A says the [REDACTED] [VRI at 240-HB and MG11s of [Ex-PC A] and PC MCCARTHY]. Also, there was [REDACTED] but Ex-PC A does not assert that this

would have been obvious to the Officer and believes he would not have noticed it [VRI 256-HB].

Officer's defence

87. During cross-examination a number of issues were put to Ex-PC A and in some cases relied on as alternative scenarios that would imply consent or support a reasonable belief in consent. Or alternatively, that Ex-PC A was motivated by jealousy or malice because the Officer had ended the relationship.

She could have physically left

88. The Officer implied that if there was no consent Ex-PC A could have stopped the sex by getting off the bed. In closing the Officer pointed out that Ex-PC had not frozen from fear during the alleged rape.

89. Ex-PC A in the VRI identified it was possible but not the easiest thing to do [VRI at 259-HB] and in cross examination again accepted she could have got off the bed.

90. She did accept that she was not physically scared or in fear of the Officer [cross examination]. In the VRI she explained her frame of mind as the Officer continued the sexual intercourse after her protests as zoning out and trying to think about other things [at 262-HB].

91. The Panel reminded themselves of the common rape myths which includes this one.

She was upset about the relationship ending and had wanted more from it, this upset had led her to make the rape allegation

92. The Officer placed weight on Ex-PC A's comments to PC MCCARTHY about being "giddy" and "hopeful" about the relationship. In relation to the "giddy" reference the Panel read this as applying to after their first meeting at Kings Cross when the sexual relationship had not begun, and any hope seems to be contradicted by her actions after the 22 November 2022. The Panel has reference to the following comments by Ex-PC A and other evidential facts.

- (a) very quickly during the first visit the relationship progressed to sex;
- (b) Ex-PC A acknowledges that the relationship was only sexual and realised this from the time of the second visit "... definitely by the second time he came over that that [sex] was all he wanted." but did at least think the Officer may have had some feeling for her. [VRI at 260-HB and cross-examination, MG 11 of PS GOLDSMITH]
- (c) the relationship covered a very short period of time, less than 2 months;
- (d) there was little to show a relationship that went beyond sex either in terms of meeting up or the level of communication between the Officer and Ex-PC A [The Officer's whatsapp messages, see also MG11 of PC BLACK "never described him as her boyfriend"]; and
- (e) there was a distinct cooling of the relationship after the 22 November 2022 on Ex-PC A's viewpoint. There was minimal communication with the Officer and contemporaneous comments to Ex-PC A's friends do not reflect any regret or malice that could be attributed to this theory [see MG11s of PC FELLOWS, PC DALRYMPLE and PC KING].

The delay in reporting the alleged rape is suspicious

93. The Officer questioned Ex-PC A's credibility because of the delay. Ex-PC A gave a number of explanations which were considered by the Panel:

- (a) She was processing what had occurred.

The Panel note this is common among rape victims. It is noted that a number of colleagues describe Ex-PC A being more emotional and not acting as they would usually expect. And in circumstances when the relationship with the Officer was discussed they had the impression Ex-PC A was not being completely open about the full extent of what had occurred [MG11s of PS GLASSCOCK, PC DALRYMPLE, PC FELLOWS, PC KING, PC SCOTT, PC MCCARTHY and Officer B]

In cross-examination before the Panel Ex-PC A admitted that on one level she did not fully realise the seriousness of the allegation until it was pointed out to her when she reported it at Brixton police station.

(b) She felt unable to disclose it to her housemate or her colleagues.

She explained it was a significant burden to place on her housemate. That is a plausible reason.

In relation to her colleagues, she realised that if she disclosed the nature of the allegation, they in turn would be obliged to report it. There would then be a significant escalation which she could not control. It would be a significant and irretrievable step which the Panel understands she faced when the other factors are also considered.

(c) She still had feelings for the Officer

Although not feelings of attachment she did admit she considered the impact on the Officer and his professional and personal life. The consequences would be life changing and she had no desire to see the Officer imprisoned. These protective feelings partially fell away after allegations were laid against Officer B.

Delay in reporting a rape allegation is not uncommon, for some of the reasons or factors highlighted by Ex-PC A. It is also noted that the focus of the allegations was initially around coercive and controlling behaviour. And in terms of timing, there was an imminent re-organisation of the teams at Charing Cross police station which raised the possibility Ex-PC A could have been re-assigned to the Officer's team. Ex-PC A was keen to avoid this hence her conversation with PS GLASSCOCK which appears to be the first step in the escalation of the matter that eventually led to the rape allegation.

The rape allegation was made to protect Officer B

94. It was suggested that a motivation for Ex-PC A reporting the rape allegation was to try and protect Officer B.

95. The Panel heard that an initial allegation of coercive and controlling behaviour had been made by Ex-PC A against the Officer, and Officer B had been key in handling the reporting of that allegation.
96. Subsequently, the Officer made an unrelated counter allegation against Officer B of a very serious nature.
97. Ex-PC A denied the rape allegation was made to protect Officer B. She did admit that the actions of the Officer in making his counter allegation had shown a ruthlessness side of his character which she disliked.
98. No evidence was placed before the Panel to evidence any motivation by Ex-PC A was to in any way protect or defend Officer B. Again, at one level the imminent re-organisation of the internal teams and Ex-PC A's conversation with PS GLASSCOCK is clearer independent evidence of how the allegation began to come to light [at 60-HB; see also the MG11 of MCCARTHY].

During the sex that was part of the allegation, she had not withdrawn consent but reluctantly consented

99. The Panel were aware of the concept of reluctant consent still being consent. However, it is noted the context of reluctant consent is usually within an established or long-term relationship. The Panel doubted it could be applied to a relationship that spanned less than 2 months in time and covered only two previous visits.

Credibility

100. This is a case where it is one person's word against another and in such cases the credibility of the parties is fundamental.
101. The Panel had the opportunity to see both the contemporaneous video recordings of Ex-PC A's VIR and the Officer's interview under caution. Both parties also gave live evidence at the hearing at which the Panel could assess how they came across and reacted.

102. The Panel also had reference to the Officer's character evidence for the sole purpose of considering his credibility in relation to allegation 1.
103. The Officer came across as largely consistent in his account for this allegation and the other and presented in a composed and professional manner.
104. Ex-PC A came across consistent in her account.
105. The Panel note that consistency in itself does not necessarily indicate the truth or falsity of an account.
106. The Panel considered Ex-PC A overall came across as the more compelling and impressive witness. Her account was measured and not completely self-serving. Her explanations were more plausible in the context. At points her account shows she was to a degree naive. At one point in cross examination, she did suggest that with hindsight the issue around the Officer's age alone was so significant to her that she questioned if any of the sexual activity was consensual. But the Panel put this down to emotional hindsight and note this does not taint her VIR, and on reflection she still maintained balance in her account under cross examination which is an adversarial process.

Panel determinations– Allegation 1

107. The Panel have considered the elements of rape.
108. It is not disputed that at the material time Ex-PC A and the Officer were engaged in penile/vagina penetrative sexual intercourse.
109. Although Ex-PC A states she did not want to re-engage in sexual intercourse, her reactions to sexual touching and voluntary manoeuvring [REDACTED] appear to be consensual as penetrative sex was re-commenced.
110. It is clear though that any consent or reasonable belief in consent cannot have remained once Ex-PC A expressly said "Stop" several times and pushed back against the Officer. The fact the protest was not loud, or the force used was not strong is immaterial, the message was clear. Also, Ex-PC A found herself in a position where she could not easily

exert force and this is accepted by the Panel. The message was clear enough that the Officer's response is itself telling: "Just take it". It shows the message and the intention behind Ex-PC A's message was clear and understandable. The Officer's response dismissive to the point that he could not have maintained a reasonable belief that Ex-PC A consented, even under reluctance as he tried to suggest to the Panel.

111. The Panel also recognise that the Officer's claims of Ex-PC A's enthusiastic and sometimes energetic engagement. But that was often, by the Officer's own description, when Ex-PC A was in a sexual position [REDACTED]. The position at the material time was quite different and Ex-PC A described her limited ability to exert force or control the sex in sufficient detail that her actions cannot be considered to communicate consent or a reasonable belief in consent.
112. The Panel also considered if the sex for the third time could be interpreted as giving the Officer a reasonable belief in consent for the material second time- even though this sexual intercourse was initially denied by the Officer as occurring. The Panel do not. It takes heed of the myth that sexual intercourse before or after implies consent at the time.
113. On the third time, Ex-PC A says she acquiesced as there was no point in dissenting because of the Officer's persistent nature. Although it is acknowledged that no dissent was vocalised or physical force used that would clearly communicate non-consent to the Officer.
114. A separate allegation of rape on the third time was not particularised by the AA, and the Officer placed little or no relevance on it for his case. The Panel consider it adds little or nothing to the material facts of the main allegation.
115. On the balance of probabilities, the Panel consider the conduct under allegation 1 is proven.
116. On seriousness, the conduct is that of the Officer's alone, there is significant personal harm to Ex-PC A, and there is significant reputational harm to the credibility of the force.
117. For these reasons the Panel consider there has been a breach of the Discreditable Conduct standard of professional behaviour amounting to gross misconduct.

Accounts and evidence- Allegation 2

118. The main account is that of the Officer. He describes in the lead up to the 28 January 2023 becoming aware of an allegation of coercive and controlling behaviour being made by Ex-PC A. Also, his personal phone (a Samsung IMEI-[REDACTED]) which he has had for 1 year had started malfunctioning. And that for the entire period he had known Ex-PC A he had been recording screenshots of all the WhatsApp messages he had read between them, including the first message from PS REID introducing them. The Officer claimed his phone had automatically set up a 24-hour deletion policy for all WhatsApp messages. He had disclosed the end of the relationship to his line manager t/Insp ANYAEGBUNA in 2022, who had advised him on 27 January 2023 to keep a record of his interactions with Ex-PC A [see also both MG11s of ANYAEGBUNA] .
119. On 28 January, the Officer was working overtime on an unscheduled shift. His working pattern had not been recorded on MPS systems which t/Insp ANYAEGBUNA had intended to record once the Officer had started his shift [evidence of PS ANYAEGBUNA]. The key beginning event is a call from his wife, that he was separated from, at the family home where police officers had attended looking for the Officer with “tasers drawn”. They had asked her not to contact him. In an effort to know more the Officer contacted the Operations room as well as 101. Both provided no clarity. The Officer decided to return to his family home and end his shift early.
120. Whilst in the basement of Charing Cross police station he recovered some items from his locker which included his father’s death certificate, his children’s birth certificates and an educational achievement certificate of his own.
121. He also tried to send from the Samsung an email from his personal Yahoo account to his work account containing the screenshots of the messages between himself and Ex-PC A. This may have continued as he exited Charing Cross police station on his journey to Paddington station, the London terminus for trains to his home in Swindon.
122. In evidence the Officer claims he began to walk from Charing Cross police station to Paddington, while in his contemporaneous account he describes being on a train which is assumed to be a tube train as there is a direct line between Charing Cross and Paddington stations [ROTI at 234-HB].

123. The Officer describes being upset and distressed at this time. This distress is further compounded when he has a call from DS JONES at 20:39 who tells him he is suspected on a “serious sexual assault” and that he is required to present himself at Brixton police station. [Comms data and MG 11 of DC SWAN]
124. The Officer’s evidence was DS JONES told him a unit would be available to collect him and from his location DS JONES determined that Edgware Road tube station was the best place to meet.
125. The Officer says he is now in a heightened state of distress and is crying in public. Accounts differ as DC SWAN says as she was tasked to collect the Officer, he called DS JONES back shortly after the initial call and said he would make his own way to Brixton police station. The Officer says DS JONES called him back and told him no unit was available. However, the next call is from the Officer to DS JONES at 21:09. The upshot is it is agreed the Officer will make his own way to Brixton police station. [Comms data and MG 11 of DC SWAN]
126. The Officer claims he became concerned his Samsung phone would start to malfunction and that he needed a reliable phone for his own welfare but also to arrange transport for one of his children to attend a football game. It is for this reason he stopped at a mobile phone shop in or around Edgware Road station and purchased a Chiva phone, which was not a smartphone because that was all he could afford. [Officer’s evidence]
127. The Officer describes the purchase and events around this point of time in the following way. He obtained a small bag in the shop with the new phone. He took the new phone and sat on a nearby low wall where he began to set up the new Chiva phone. He needed a SIM key to open both phones so the SIM card could be swapped. He found something suitable in his rucksack and at the time transferred the documents he had earlier removed from his locker into the small shopping bag. Into this shopping bag he also included the Samsung which was now without a SIM and no longer connected to the mobile network. Comms data shows the SIM was likely swapped at or around 20:55. [Officer’s evidence; Comms data and MG 11 of DC CONNELL at 125-HB]

128. The Officer then commenced his journey to Brixton. [REDACTED] then arrived at Brixton police station at 22:30, travelling by overground train to Brixton. [Officer's evidence and Custody record]
129. At reporting into Brixton police station he was arrested and his Chiva phone was immediately seized by the arresting officer. He needed time to compose himself before he was processed in a room off the custody suite. His belongings including his rucksack were logged. There was no Samsung, or birth, death or educational certificated specifically logged in the custody record, however it did list "documents". His work laptop was logged and seized. The Officer claims this was not done in his presence and he was not aware of the missing items. [Officer's evidence; Custody Record at 66-HB; and MG 11 of SWAN at 127-HB]
130. The Officer told the Panel he was aware of custody suite procedures.
131. He was not interviewed until the 29 January 2023. In interview he did not hide the existence of the Samsung and explained how he used it to record the WhatsApp history of Ex-PC A and himself. He claims at this stage he was not aware the Samsung was missing. He denied a request for the passcode for his phone[s]. Later in the interview he was asked where it could be and the interviewing officer suggested the Officer's locker at Charing Cross police station. The Officer claims at this stage he wanted the interview to be over and was still traumatised by the allegation that he adopted an approach of "possibility" in his answers; and replied that it was possible it was in the locker. [ROTI at 224, 232 and 235-HB]
132. An email with a selection of WhatsApp messages was recovered from his MPS email account, this was from his personal Yahoo account and dated as sent on 30 January 2023. [MG11 of DC CONNELL at 136-137 and 152-169-HB]
133. The Officer believes he left the Samsung in the small shopping bag at the location where he swapped the SIM card to the Chiva phone. That was the last time he saw it and has not used or controlled it since. [Officer's evidence]

134. Since his release on the 29 January the Officer has not accessed his then personal Yahoo account and instead opened a different email account and obtained a new phone. [Officer's evidence]
135. As an explanation to the 30 January email, he suggests either there was an issue with the MPS system which delayed its delivery and the "sent" stamp is really a received stamp. Or an unknown third party picked up the Samsung phone and reconnected it so that the email was delayed in sending and only sent after the phone was lost and out of the Officer's control.
136. Late in the proceedings the Officer provided a printout of what he claimed was the full extent of the WhatsApp conversations he had with Ex-PC A (excluding any message that was unread before it was deleted by the 24 hour deletion policy). In evidence he explained he printed these out from his personal device and personal email at an internet cafe where you emailed any documents direct to the shop. A hard copy had been provided to his defence solicitors on 6 February 2023 and been disclosed to the police investigation.
137. The last discernible messages are from the 19 January 2023. The Officer could not remember which personal email account he used to send the images to the internet cafe for printing. He was always forgetting his login details and having to open a new account, or he would open a new account depending on what he wanted to do. [Officer's evidence]
138. There is no corroborating evidence before the Panel to show when the Officer sent the screenshots to the internet cafe. But presumably it would have to be linked to his Samsung on which the screenshots were taken from.
139. In line with the test under *Ivey* the Panel considered the Officer's knowledge and genuine beliefs on 28 January 2023:
- (a) the Officer knew of a non-criminal allegation against him before the 28 January 2023;
 - (b) On the 28th before 19:31 the Officer was called by his wife from his family home and told police officers had visited the address looking for him and with "tasers drawn" [see Comms data and Officer's evidence];

- (c) the Officer was unaware of the serious sexual assault allegation when he decided to leave his shift early and travel to his family home from Charing Cross police station via Paddington train station [Officer's evidence];
- (d) the Officer believed his Samsung phone (Samsung) was faulty and prone to unreliability [Officer's evidence];
- (e) the Officer believes he used his Samsung to attach the WhatsApp screenshots (Screenshots) from his phone and using the police station Wi-Fi send them via his personal Yahoo email account to his MPS work email [Officer's evidence];
- (f) During his exit from Charing Cross police station and journey towards Paddington he knew his Samsung was still functioning, being connected to the network, as he made and received calls and messages [Comms data];
- (g) During the call from DS JONES to the Officer, which started at 20:39, he knew that the allegation against him was a "serious sexual assault", that he was required to attend Brixton police station and that he was to wait at or near Edgware Road tube station for collection by a colleague of DS JONES [Officer's evidence, MG11 DC SWAN and Comms data];
- (h) The Officer had genuine concerns about the reliability of his Samsung and believed he needed another mobile device to arrange for his own welfare and his childcare responsibilities [Officer's evidence];
The Panel question the genuineness of the Officer's beliefs considering:
- i. the Samsung was not stated as "glitching" or malfunctioning at that time, and
 - ii. the prioritisation of transport for a family member to a football game at a time when the Officer described his emotional state as in shock and trauma, there was another family member who could make these arrangements, the urgency and tasking to him is unclear as he was due to be working at that time if his arrangements had stayed the same;
- (i) the Officer believed he was attending Brixton police station on a voluntary basis and "Caution +3" process [Officer's evidence];
- (j) the Officer's genuine belief that his Samsung would not be of interest to the CSU investigation is doubted for the following reasons by the Panel:

- i. he is an officer of sufficient service and experience to understand the potential evidential value of a mobile device,
 - ii. his account includes the forensic awareness to record conversations on his device before they disappeared from the start of his relationship with Ex-PC A in case it was needed and months before any allegations were made [Officer's evidence],
 - iii. he claims to have transferred records from his Samsung to his work email account only shortly before starting his journey to Paddington train Station, a reminder that his phone held potentially pertinent information,
 - iv. t/Insp Anyaegbuna, a trusted third party, had recommended he kept a record of those conversations so reinforcing the value of the data on the Samsung [second MG11],
 - v. he had just been told he was being investigated for a "serious sexual assault" and already had knowledge that police officers had attended his family home looking for him [Officer's evidence, PC SWAN],
 - vi. as a police officer he would have been aware of the police powers of search and seizure, and
 - vii. he has an awareness of police processes and procedures including around the custody suite;
- (k) When the Officer removed his SIM card from the Samsung and placed it in the new Chiva phone at 20:55 he knew the Samsung was no longer connected to the mobile network and unable to transmit or receive data or calls [Comms data];
- (l) the Officer knew he was outside an unfamiliar shop [Officer's evidence];
- (m) the Officer had a second call with DS Jones and knew he was to travel to Brixton police station independently [Officer's evidence and DC SWAN];
- (n) the Officer genuinely believes he lost the Samsung in a small shopping bag near the shop where the Chiva was purchased [Officer's evidence];
- (o) the Officer knew when he arrived at Brixton police station and was arrested that the investigation team were interested in any mobile device as his Chiva phone was immediately seized [Officer's evidence];

- (p) he knew that upon arrest that his possessions would be searched, logged and reviewed for seizure by the investigation team [Officer's evidence];
- (q) In interview on the 29 January 2023, he knew that the investigation team were not in possession of the Samsung [ROTI];
- (r) any genuine belief that the Samsung was in his police locker is doubted by the Panel because:
- i. the Officer knew he left Charing Cross police station with the Samsung,
 - ii. he switched the SIM card from the Samsung to the Chiva outside the unknown shop in the Paddington area,
 - iii. no-where in his account of the journey from near Edgware Road tube station to Brixton police station did, he say he returned to Charing Cross police station and his locker,
 - iv. mobile cell site data shows the Chiva phone now active with the Officer around the Paddington and Maida Vale areas of London en route to Brixton; [Officer's evidence and Comms data]
- (s) the Officer genuinely believes the email dated 30 January 2023 was sent from the Samsung as he was leaving Charing Cross police station on 28 January 2023 and that there is a technical fault within MPS systems [Officer's evidence].
- (t) As an alternative the Officer genuinely believes that an unknown third party may have accessed his Samsung after he left it outside the unknown shop near Edgware Road tube station and completed the sending of the email [Officer's evidence]. The Panel considers this cannot be a genuinely held belief because:
- i. it would require the Samsung's reactivation and knowledge of the Officer's private phone PIN or passcode by an unknown third party with no connection to the Officer;
- (u) the Officer genuinely believes he did not possess or use the Samsung after he swapped the SIM card into the Chiva phone on 28 January 2023. The Panel doubt the genuineness of this belief considering:
- i. the Officer was the last known person in possession and control of the Samsung,
 - ii. there is a significant time period between the Officer having to make his own way to Brixton and him presenting at Brixton police station, time in which a device could be concealed [Officer's evidence, DC SWAN, Comms data],

- iii. by the Officer's own account, he has not accessed his Yahoo email account from any 3rd device since the 28 January and had to create a new account upon his release from custody [Officer's evidence],
 - iv. the alternative beliefs of a technical problem on the MPS systems that only affected his email, or a third party reconnected his inactive Samsung are incredible, and
 - v. the most probable explanation for the sending of the email date stamped the 30 January is that it was accessed on the Samsung and sent on the 30 January.
140. In line with the test under *Ivey* the Panel considered the Officer's knowledge and genuine beliefs.
141. Now turning to the particulars of the allegation and if the conduct of the Officer was objectively honest even if he does not consider it dishonest.
142. The Officer lacked credibility with the Panel in his explanations for the missing Samsung, and at times appeared to try and deflect e.g. whether he was going to be arrested or not; claiming he used screenshots of WhatsApp messages over retaining them on the app because it used less memory; or he was IT literate enough to setup email accounts, use passwords or codes on phones or work email accounts, but so IT illiterate he regularly forgot personal email account passwords which meant he could not access them again and had to regularly set up new accounts.
143. He claimed to be in such trauma that he was openly breaking down [REDACTED]. While at the same time the Panel was being asked to believe he was thinking about his welfare and childcare responsibilities as a motivation to change his phone handset. Childcare responsibilities that the Panel would not have expected to have been his concern as he was meant to be at work at the time; and there was parental cover to deal with that issue.
144. It does not appear to the Panel as merely circumstantial that within 11 minutes of being told he was facing a serious sexual assault allegation and that he was being picked up by police officers at Edgware Road station (20:39 to 20:43); he had: found a mobile phone shop, purchased the Chiva phone, left the shop, and swapped his SIM card out of the Samsung into the Chiva (20:55).

145. And then from 21:09 when he called DS Jones and arranged to make his own way to Brixton it took over 80 minutes to when he arrived at 22:30. This is a significant gap in time. Although he might have been unfamiliar with the location of Brixton police station he had travelled to Brixton on three occasions to visit the home of Ex-PC A over the recent months. Phone records show he remained around the Paddington Station area until 21:41 [Comms data].

Panel determinations- Allegation 2

146. The purchase of the Chiva phone and bringing it to Brixton police station is not in itself objectively dishonest.

147. The dishonesty comes from the apparent intentional failure to bring the Samsung when the Officer came to Brixton and the suspected deactivation and concealment of the Samsung when the Officer knew of the seriousness of the allegation against him, there was an active criminal investigation and a lack of a genuine belief that the Samsung would have no evidential relevance or value to the investigation team considering the Officer's rank, expertise and own behaviour in using it to store and retain information.

148. In interview the Officer is honest about the existence of a second phone and his use of it. Objectively the potential location of it in his locker at Charing Cross police station is raised and led in questioning by the interviewing officer. Objectively his comment is poorly judged but the Panel recognise at this stage this was at the tail end of his interview where he had co-operated. The Panel cannot say on the case before them that on the balance of probabilities that the mention of the locker as a location by the Officer was a knowing and intentional misleading of the investigation team and so objectively dishonest.

149. The Panel consider the Officer was dishonest about the time the email was sent. The Panel consider on the balance of probabilities that the email dated 30 January 2023 was sent from the Samsung and the Officer is concealing this fact in order to conceal his continued control over the Samsung phone up and until at least the 30 January 2023.

150. The Panel are not required to consider every particular of the allegation is met. There are sufficiently discrete courses of conduct by the Officer that can amount to dishonesty. In this case two are proven: the initial switching and concealing of the Samsung and the

continued misleading of the investigation team when it was in the Officer's control at least until 30 January 2023 when the email with the screenshots was sent.

151. In assessing the seriousness, the dishonesty is linked to an investigation into a serious criminal offence (the rape), and the Panel notes and accepts the AA's position that an offence of perverting the course of justice is not being alleged as an equivalence for the conduct in question.
152. A central tenant of public confidence is that police officers can respect the integrity of the criminal justice process. The culpability of the Officer's actions are his own. Where this amounts to dishonesty the breach would amount to gross misconduct that would justify dismissal.
153. The Panel find the Honesty and Integrity standard of professional behaviour has been breached at the level of gross misconduct.

Outcome decision

154. The Panel heard submissions from the AA and the Officer's counsel. The Panel had the benefit of the Officer's training and disciplinary record as well as his character evidence comprising of 6 statements. The Panel has regard to the AA's submission that if the sanction of reduction in rank was determined, then the AA would have no operational role they could accommodate the Officer's re-assignment into.
155. For both allegations the seriousness is assessed as serious with high culpability. The actions are the Officer's alone and were intentional in both allegations.
156. For allegation 1 there is significant harm to the victim and to the reputation of the force and public confidence. Rape is a serious offence and although this is not a criminal finding it is equally serious in terms of harm.
157. For allegation 2 the harm is to the reputation of the force and public confidence. The public expect the highest standards of honesty and integrity among officers. This was lacking in the context of a serious criminal investigation.

Aggravating circumstances

158. The following aggravating circumstances are considered to apply under allegation 1:
- (a) The Officer acted for his own sexual gratification as he continued until he had ejaculated;
 - (b) the Officer was in a position of trust as a police sergeant compared to Ex-PC A who was still a probationer; and
 - (c) the allegation amounts to conduct that represents violence against women and girls.
159. For both allegations the national concern is high. VAWG is a major public concern for allegation 1. For allegation 2 the public expect police officers to act with honesty and integrity especially when it is linked to a criminal investigation for a serious sexual offence.

Mitigating circumstances

160. For allegation 1 there is only one instance of the conduct proven.

Purpose of the proceedings

161. The Panel have considered the purposes of the proceedings as set out under para. 2.3 of the *Outcome Guidance*.

Least severe outcome

162. The Panel reminds itself that it must consider the least severe outcome of the options available.
163. Considering the seriousness of each allegation individually and the principles the Panel cannot see any other outcome apart from dismissal that adequately deals with protecting the public whilst taking into account the public interest.
164. Combined, the proven allegations are so serious and go against the core values of the force and purpose of these proceedings. The Officer offered very little mitigation. Mention

was made of the personal crisis the Officer found himself in at the time of the allegations.
This has little weight when contrasted with the proven conduct.

165. As is well established, personal mitigation has little or no significant weight.

166. The task before the Panel was not to punish the Officer personally, it was to assess his suitability to remain in the office of a warranted police officer. Maintaining the highest standards, protecting the public's confidence in policing and the reputation of the force and protecting the public are the aims of these proceedings.

The Panel found for:

Allegation 1 the outcome is dismissal without notice; and

Allegation 2 the outcome is dismissal without notice.

Sian Chacksfield

Panel Chair

on behalf of the Panel