

The POLICE (CONDUCT) REGULATIONS 2020

IN THE MATTER OF:

THE APPROPRIATE AUTHORITY

-v-

DC DANIEL LLEWELLYN

DECISION

Appearances:

On Behalf of DC Llewellyn: Mr. Milner (Counsel)

On Behalf of the AA: Mr. Hobbs (Counsel)

Before:

Commander Andy Brittain

Ms. Margie Leong (IPM)

Mr. David Scott (IPM)

Mr. Marcus Joyce (LQA)

I. ALLEGATIONS

A. Regulation 30 Notice

DC Llewellyn faced the following allegations:

Allegations

1. *On an occasion in June 2019 you sent via mobile phone using Facebook Messenger to Female A photographs of the following:*
 - a. *Of yourself naked on the upper half of your body, and*
 - b. *Of yourself wholly naked showing your penis*

2. *In relation to the matters in paragraph 1:*
 - a. *One or both photographs were sexualised in nature, and/or*
 - b. *Your actions were unsolicited, and/or*
 - c. *You knew and/or ought reasonably to have known your actions were unsolicited, and/or your actions were sexually motivated.*
3. *In relation to the matters in paragraph 1, your actions amounted to sexual harassment pursuant to s.26 Equality Act 2010 in that you engaged in unwanted conduct of a sexual nature, which had the purpose or effect of violating the dignity of Female A or creating an intimidating, hostile, degrading, humiliating or offensive environment for her.*
4. *By reason of the matter above in paragraphs 1 and 2 and 3 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, in that you behaved in a manner which discredited the police service and/or undermined public confidence in it, whether on or off duty.*
5. *Your behaviour amounts to gross misconduct.*

B. Regulation 32 Response

The Officer's Regulation 32 Response provides, in relevant part, as follows:

1. *The Officer accepts allegations 1 – 4.*
2. *As regards allegation 5, it is not accepted that the Officer's behaviour amounts to gross misconduct.*
3. *If it is determined that the Officer's behaviour does amount to gross misconduct, it is submitted that there exist exceptional circumstances in his case to impose a final written warning.*

II. FACTS

1. The hearing took place over 7,8 and 9 April 2026. Female A gave oral evidence as part of the AA's case. DC LLEWELLYN gave evidence. There was a bundle of approximately 80 pages. There was also a bundle of character evidence presented on behalf of DC LLEWELLYN.

2. We found the following facts:

3. In June 2019, Female A was a trainee Detective Constable based at Colindale Police Station. She was on the same team as DC LLEWELLYN. DS [REDACTED] was the Detective Sergeant.

4. On the day of the incident, Female A, DC LLEWELLYN and other colleagues were sitting in the communal area. A discussion began about the television show "Naked Attraction" in which contestants chose other contestants based on a gradual reveal of their naked bodies. Some of those present, including DC LLEWELLYN and Female A, watched a video clip of the show.

5. Later that day, DC LLEWELLYN was assisting Female A with processing a prisoner. At some point later that day DC LLEWELLYN left the office. He bought some bottles of wine and went home to his friend's house in Watford, where he was staying. He drank 2-3 bottles of wine over the evening. He messaged Female A through Facebook messenger asking her if she still needed help with the processing of the prisoner. Female A replied by thanking him for his help and saying she did not need any further help.

6. Following the above initial messages, at some point later that evening, DC LLEWELLYN then messaged Female A again. The message was about couples having sex. Female A found the comment to be random in nature but conceded it may have been linked to the prisoner that she and DC LLEWELLYN had been processing earlier that day. Otherwise, the comment appeared to be without context.

7. DC LLEWELLYN then sent Female A a photograph of his naked torso. The photo was taken by DC LLEWELLYN from the point of view of his reflection in the mirror. Female A responded by trying to laugh the matter off stating "I don't know how I'll look at you in the office".

8. DC LLEWELLYN then, immediately after sending the above photo, sent Female A a photo of his naked body including his flaccid penis. Again, the photo was taken by DC LLEWELLYN as his reflection in the mirror. Female A again responded by attempting to 'laugh the matter off' stating that she was unsure how she would be able to look at DC LLEWELLYN the same way in the office. DC LLEWELLYN then sent a laughing emoji to Female A. The messages themselves were deleted by Female A and also by DC LLEWELLYN.

9. In the days that followed, Female A spoke with a colleague and friend, Ms [REDACTED]. When Female A spoke with [REDACTED] she did not consider the matter to be particularly serious but [REDACTED] took the view that it was serious and needed to be addressed.

10. Female A did not wish to make a formal complaint at the time. This was because she feared the negative stigma that may follow from her complaining about a colleague, particularly as she had recently joined the team. She chose to speak to DS [REDACTED] to tell him what had happened. Female A did not discuss the matter directly with DC LLEWELLYN. DS [REDACTED] raised the matter directly with DC LLEWELLYN.

11. On 11 July 2019, DC LLEWELLYN and Female A were at the police station at the same time, but did not speak to each other. Later that day DC LLEWELLYN sent Female A a message on Facebook messenger as follows: "Hi [Female A], I have heard I upset you with my photo. I meant to talk to you today to apologise. I am sorry if I upset you or made you uncomfortable".

12. Female A responded "Hi dan! Sorry for the late reply. You didn't upset me. I didn't want to make anything formal whatsoever but yeah, the more I thought about it the more awkward I felt as I didn't quite understand the rationale in your brain. But thank you, I appreciate it. Just be careful as the next person may not be so forgiving".

13. In 2025, DC LLEWELLYN was assigned to a new role in the Child Abuse Investigation (CAIT) team, where Female A was already working. He was appointed as an acting DS in a supervisory role, although he was not Female A's direct supervisor. Female A felt very uncomfortable about potentially having to go to him for advice and also potentially finding herself in a situation where she might be alone with him. At this point, she raised a formal complaint about the events in 2019.

III. LAW

14. The purpose of police misconduct proceedings are three-fold: (i) the primary purpose is not to punish the officer in question, but to protect public confidence in, and the reputation of, the police service; (ii) the second purpose is declaratory of high professional standards – the police service will not tolerate certain kinds of misconduct and (iii) protection of the public and or officers and or staff.

15. The burden of proof is on the AA. The standard of proof is the balance of probabilities: it is more likely than not that the allegations are true. The relevant Statutory Home office guidance elaborates further as follows:

9.10: In deciding matters of fact, the persons conducting the misconduct meeting or hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the persons conducting the meeting or hearing are satisfied by the evidence that it is more likely than not that the conduct occurred. The balance of probabilities is a single unvarying standard (i.e. there is no sliding scale). The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officer do not require a different

standard of proof, merely appropriately careful consideration by the panel before it is satisfied of the matter which has to be established. The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when deciding whether, on the balance of probabilities, the conduct occurred.

9.11: In making a decision whether the alleged conduct of a police officer is proven or not, the persons conducting or chairing will need to exercise reasonable judgement and give appropriate careful consideration to the evidence.

16. **Basson v General Medical Council [2018] EWHC 505 (Admin)** provides in relevant part:

a. “A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship”.

b. “. . .the state of a man’s mind is to be proved in the usual way by the necessary body of evidence on the balance of probabilities . . . However, the state of a person’s mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence”.

IV. BREACHES OF STANDARDS

17. The following standard was relevant to the allegations:

18. The Standard in relation to Discreditable Conduct is:

I will behave in a manner, whether on or off duty, which does not bring discredit on the police service or undermine public confidence in policing.

19. The Code of Ethics also states:

As a police officer, member of police staff or other person working for the police service, you must keep in mind at all times that the public expect you to maintain the highest standards of behaviour. You must, therefore, always think about how a member of the public may regard your behaviour, whether on or off duty.

You should ask yourself whether a particular decision, action or omission might result in members of the public losing trust and confidence in the policing profession.

It is recognised that the test of whether behaviour has brought discredit on policing is not solely about media coverage and public perception but has regard to all the circumstances.

V. CONCLUSIONS

A. Conclusions on Allegations/Breaches of Standards

20. As to Allegation 1, we find it proven: as admitted by the officer he sent photographs of his naked torso and penis to Female A via Facebook messenger in June 2019.
21. As to Allegation 2, we find, as admitted by the Officer, that the photographs were both sexualised in nature and that DC LLEWELLYN's actions were unsolicited. We find that he knew that the messages were unsolicited. We find that they were sexually motivated in order to pursue some kind of relationship of a sexual nature with Female A and that he knew this was what he was attempting to do.
22. We consider that as to Allegation 3, we find that it was sexual harassment in that DC LLEWELLYN engaged in unwanted conduct of a sexual nature which had the effect (rather than the purpose) of violating the dignity of Female A. We reached this conclusion on the basis of all of the evidence, including Female A's oral evidence that she did not think DC LLEWELLYN sent her the messages for the purpose of humiliating her or that his intent was malicious.
23. As to Allegation 4, in addition to DC LLEWELLYN accepting that his actions amount to a breach of the standard of discreditable conduct, we consider that his actions in sending photos of his naked body, including his penis, to a female colleague evidently breached this standard. It is clear that such behaviour is in breach of the highest standards required and would cause the public to lose trust and confidence in the policing profession.

B. Misconduct or Gross Misconduct

24. Allegation 5, which was denied by DC LLEWELLYN, alleges that his behaviour amounts to gross misconduct. In order to decide whether his actions, resulting in the breach of the standard of discreditable conduct, amounted to misconduct or gross misconduct, we need to assess the issue of seriousness. In assessing seriousness, we need to consider culpability, harm, aggravating factors and mitigating factors.

(i) Culpability

25. We have carefully considered whether the breaches amount to gross misconduct or misconduct. We noted the following:

26. The conduct was intentional and deliberate. It was targeted conduct.
27. The conduct was sufficiently serious that it was at the relevant time (and still is) criminal in nature.
28. Under 4.40 of the College of Policing Guidance (“CoP”), it is misconduct involving sexual impropriety in the form of sexual harassment.
29. As to 4.41 CoP we accept that DC LLEWELLYN was not persistent, Female A was not particularly vulnerable, that multiple persons were not affected and there was no breach of a position of trust. However, we again recall that sexual impropriety is serious in and of itself.
30. We noted that DC LLEWELLYN was a more experienced DC than Female A but we did not consider, bearing in mind he was not her supervisor or mentor, that there was a power imbalance or position of trust that was breached.
31. While the AA has submitted that the conduct amounts to discrimination, we consider that this would amount to double counting and we focus on the fact that this was sexual impropriety through the commission of sexual harassment.
32. As to violence against women and girls (CoP 4.60), we consider that this particular misconduct (sending sexual photographs) is a type of misconduct which does disproportionately affect women and girls. Misconduct of this nature is to be treated with the utmost seriousness.
33. We find culpability to be **high**.

(ii) Harm

34. There is harm to the victim, Female A. It is acknowledged that while Female A has not suffered serious psychological harm (based on her own evidence), it has harmed her sufficiently such that she feels unable to work directly with DC LLEWELLYN due to awkwardness and that was still the case 6 years after the events in question.
35. There is significant damage to public confidence in the police service and the behaviour would be perceived in a highly negative manner by the public.
36. We consider the harm to be **high**.

(iii) Aggravating Factors

37. The misconduct was sexually motivated (although we note that sexual impropriety was taken into account in our assessment of culpability and we do not double count it here).

38. There is a high degree of national concern in relation to offences of this nature against women.

(iv) Mitigating Factors

39. This was a single episode of misconduct (notwithstanding it involved sending 2 photographs).

40. There is some insight and remorse on the part of DC LLEWELLYN.

41. DC LLEWELLYN had experienced a breakdown in his relationship 8 months previously, the ramifications of which were still being dealt with by him at the time of the offences.

42. DC LLEWELLYN seeks to rely on the fact that he was drinking excessively at the time – we accept that this provides context but is not mitigation for his actions.

C. Conclusion

43. In light of the above assessment, we consider that DC LLEWELLYN is culpable of **Gross Misconduct**.

Outcome

Law and Approach on Outcome:

187. As set out at para. 3.12 of the CoP Guidance: The available outcomes at a misconduct hearing are: written warning; final written warning (which may be extended); reduction in rank; dismissal without notice.

100. There is a three-stage approach to determining the appropriate sanction as set out at para. 4.2 of the CoP Guidance with reference to *Fuglers LLP v Solicitors*

Regulation Authority [2014] EWHC 179 (Admin), paragraph 28. The authority of *R (Chief Constable of the Greater Manchester Police) v Police Misconduct Panel (2) Roscoe* emphasised the importance of adopting this structured approach to outcome.

101. The First Stage is to assess the seriousness of the misconduct. This requires consideration of four issues:

- (i) The officer's culpability for the misconduct;
- (ii) The harm caused by the misconduct;
- (iii) The existence of any aggravating factors;
- (iv) The existence of any mitigating factors.

102. As to the Second Stage, we need to recall the purpose of imposing sanction. The purpose of the police conduct regime is threefold:

- (i) Maintain public confidence in, and the reputation of, the police service;
- (ii) Uphold high standards in policing and deter misconduct;
- (iii) Protection of the public.

103. Para. 4.4 of the CoP guidance states that "*The most important purpose of imposing disciplinary sanctions is to maintain public confidence in, and the reputation of, the policing profession as a whole. This dual objective must take precedence over the specific impact that the sanction has on the individual whose misconduct is being sanctioned.*"

104. As to the Third Stage we need to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

105. As to other relevant case law, we noted *Salter v Chief Constable of Dorset Police [2012] EWCA Civ 1047* ("*Salter*") re-emphasises that the most important purpose of police misconduct proceedings and the outcome to be imposed is to maintain public confidence in the police service and to maintain its collective reputation (para. 24 (i) (c)). *Salter* further provides that while there may be a punitive element to an outcome the imposition of an outcome is not primarily punitive and may not be punitive at all.

106. Further *R (Williams) v Police Appeals Tribunal [2016] EWHC 2708* ("*Williams*") provides that a finding of gross misconduct is a finding that the misconduct was so serious that the officer in question's dismissal would be justified. However, the case of *R (COP) v (1) PAT (2) Naulis [2013] EWHC 1684* reminds us that not every finding of gross misconduct will lead to dismissal.

107. *Williams* further provides that we must take account of personal mitigation, but that personal mitigation is likely to have a limited impact on the outcome where the misconduct threatens the maintenance of public confidence and respect in the police.

108. Per **Giele v GMC [2005] EWHC 2143 [Admin]**, there is also a public interest in retaining competent police officers. CoP 4.82 provides that in cases where the misconduct occurred several years prior to the meeting or hearing, we must consider the outcome by reference to the standards of the time rather than current attitudes and standards and give due account to the officer's conduct in the intervening years – for example, whether they performed their duties to a high standard.

109. We recalled that we must start by considering the least serious sanction and if it does not meet purpose of regime, then move to the next most severe sanction

Stage 1:

110. We assess seriousness again with reference to culpability, harm, aggravating and mitigating factors.

Culpability

111. The conduct was intentional and deliberate. It was targeted conduct.

112. The conduct was sufficiently serious that it was, at the relevant time, (and still is) criminal in nature.

113. Under 4.40 CoP, it is misconduct involving sexual impropriety in the form of sexual harassment.

114. As to 4.41 CoP we accept that DC LLEWELLYN was not persistent, Female A was not particularly vulnerable, that multiple persons were not affected and there was no breach of a position of trust. However, we again recall that sexual impropriety is serious in and of itself.

115. We noted that DC LLEWELLYN was a more experienced DC than Female A but we did not consider, bearing in mind he was not her supervisor or mentor, that there was a power imbalance of position of trust that was breached.

116. While the AA have submitted that the conduct amounts to discrimination, we consider that this would amount to double counting and we focus on the fact that this was sexual impropriety.

117. As to violence against women and girls (CoP 4.60), we consider that this is a type of misconduct (sending sexual photographs) which does disproportionately affect women and girls. Misconduct of this nature is to be treated with the utmost seriousness.

Harm

118. There is harm to the victim, Female A. It is acknowledged that while Female A has not suffered serious psychological harm (based on her own evidence), it has harmed her sufficiently such that she feels unable to work directly with DC LLEWELLYN due to awkwardness and that was still the case 6 years after the events in question
119. There is significant damage to public confidence in the police service and the behaviour would be perceived in a highly negative manner by the public.
120. We also noted that the CoP further states that “*Harm will likely undermine public confidence in policing*” (para 4.66) and continues: “*Where gross misconduct has been found and the behaviour has caused – or could have caused – serious harm to individuals, the community and/or public confidence in the police service, dismissal is likely to follow. A factor of the greatest importance is the impact of the misconduct on the standing and reputation of the profession as a whole*” (para 4.74).

Aggravating factors

121. The misconduct was sexually motivated (although we note that sexual impropriety was taken into account in our assessment of culpability and we do not double count it here).
122. There is a high degree of national concern in relation to offences of this nature against women.

Mitigating factors

123. This was a single episode of misconduct (notwithstanding it involved sending 2 photographs).
124. There is some insight and remorse on the part of DC LLEWELLYN.
125. DC LLEWELLYN had experienced a breakdown in his relationship 8 months previously, the ramifications of which were still being dealt with by him at the time of the offences.

126. DC LLEWELLYN seeks to rely on the fact that he was drinking excessively at the time – we accept that this provides context but is not mitigation for his actions

Personal Mitigation

127. We recall the need to carefully consider personal mitigation but that personal mitigation is likely to have a limited impact on the outcome where the misconduct threatens the maintenance of public confidence and respect in the police. In this regard we note the authority of *Williams*.

Stage 2

128. We again recall the purpose of imposing sanction. The purpose of the police conduct regime is threefold:

- (a) Maintain public confidence in, and the reputation of, the police service;
- (b) Uphold high standards in policing and deter misconduct;
- (c) Protection of the public.

129. We recall para. 4.4 of the CoP guidance: *“The most important purpose of imposing disciplinary sanctions is to maintain public confidence in, and the reputation of, the policing profession as a whole. This dual objective must take precedence over the specific impact that the sanction has on the individual whose misconduct is being sanctioned.”*

Stage 3

130. We need to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question. We again remind ourselves of the need to choose the least severe sanction available and, if necessary move upwards to choose a more severe sanction.

131. We also remind ourselves of all of the relevant case law, including that not every case of gross misconduct will result in dismissal, and that the sanction does not need to have a punitive element. We remind ourselves of the CoP guidance and in particular paragraph 4 of that guidance.

132. DC Llewellyn’s misconduct involves sexual impropriety of a serious nature in the form of sexual harassment. This included the misconduct being sexually motivated through seeking to pursue some form of sexual relationship

with Female A. Per the CoP guidance at 4.40/4.41, sexual misconduct is to be regarded as serious and can significantly undermine public trust in the profession.

133. The harm occasioned by such sexual misconduct to public confidence in, and the reputation of, the police service cannot be overstated. We acknowledge that the offences occurred in 2019 and the officer's efforts as a police officer in the intervening years. We take account of his character references as presented by his Counsel.

134. However, we consider that in 2019 sexual misconduct of this kind was still regarded as particularly serious, and that remains the case today. The officer himself recognised in his oral evidence that back in 2019 he knew what he had done was serious and potentially career ending. We acknowledge the case law regarding the need to retain competent officers in the service, but consider that this need cannot outweigh the fundamental requirement that the public must have confidence in the police service.

135. We have considered sanctions less serious than dismissal, including the Defence's invitation to impose a final written warning of extended duration. However, given the seriousness of this misconduct we do not consider that this will meet the objective of maintaining public confidence in, and the reputation of, the police service.

136. Considering all of the circumstances, we conclude that the three-fold purpose of these proceedings, including maintaining public confidence in, and the reputation of the police service, can only be met by imposing the sanction of **dismissal without notice**.

Commander Andy Brittain