

## Accelerated Misconduct Hearing of PS A held on 13<sup>th</sup> May 2025

### *Legal arguments*

1. As a preliminary matter, Ms Stevens submitted that:
  - i. the referral to an AMH is procedurally unfair;
  - ii. the reassessment from misconduct to gross misconduct is unlawful; and
  - iii. the proceedings amount to a potential abuse of process.
  
2. In particular, Ms Stevens submitted that it had been formally communicated under Regulation 23 that:
  - i. the statutory severity assessment had been completed;
  - ii. the matter had been classified as misconduct rather than gross misconduct;
  - iii. the applicable procedural framework would be a misconduct meeting; and
  - iv. it was communicated that the officer would not face dismissal.
  
3. Ms Stevens submitted that the matter had been reclassified as gross misconduct without any further evidence, misconduct, factual disputes or investigative material having been obtained.
  
4. As a result, Ms Stevens submits that the matter should be remitted to the misconduct meeting unit originally determined by the AA. Alternatively, Ms Stevens submits that that the proceedings should be stayed or dismissed. Alternatively, Ms Stevens submits that the matter should go to a full gross misconduct hearing, with evidence to be given from the IO as well as the two AA's who had determined this as misconduct.
  
5. Ms Shah, for the AA, submitted that there has been a proper reassessment under Regulation 14(6).
  
6. Whilst it is accepted that Regulation 23 does not expressly provide for re-determination, Regulation 14(6) holds that **at any time before the start of misconduct proceedings**, the appropriate authority may revise its severity

assessment if it considers it appropriate to do so. Per Regulation 17(4), where notice is given and the appropriate authority revises its severity assessment in accordance with regulation 14(6), the appropriate authority must as soon as practicable give the officer concerned a written notice of the result of the revised severity assessment.

7. The Home Office Statutory Guidance at 7.11 and 7.14 provides the following clarification:

**“7.11 The appropriate authority may revise its severity assessment at any time prior to the start of disciplinary proceedings, where it appears that their initial assessment was incorrect or where new information has been found** which affects the original assessment. Where the investigator believes that, taking account of fresh evidence, the appropriate authority is likely to consider that the matter no longer meets the threshold of misconduct or gross misconduct, the investigator must submit a report to the appropriate authority. This report should include, as per Regulation 21(4) of the Conduct Regulations:

- a) a statement of the investigator’s belief and the grounds for it,
- b) a written report of the investigation up until that point, and,
- c) a statement of the investigator’s opinion as to whether the matter should be referred to be dealt with under the Performance Regulations, (see Section 5), or the Reflective Practice Review Process (see Section 4).

...

**7.14 Care should be taken in revising the severity assessment to ensure that there is no unfairness to the officer concerned. Where the appropriate authority does revise its severity assessment, it must, as soon as practicable, give the officer concerned written notice of the change as well as the reasons for this change, subject to the harm test as set out in Regulation 6 of the Conduct Regulations.”**

8. Ms Stevens relies on *R v Chief Constable of Merseyside ex parte Merrill [1989] 1 WLR 1077*, and argues that there would be considerable unfairness in proceeding, given that there would be prejudice to the officer (given his initial expectation of, at most, a final warning) and there having been significant departure from the intended disciplinary framework.

9. Ms Shah submitted that the revision of the severity assessment properly reflects the seriousness of the allegation, and took place prior to the scheduled misconduct meeting for PS A. This was on the basis, as per 7.11 above, that the AA's initial assessment was incorrect. Ms Shah submits, therefore, that there has been no departure from the disciplinary framework. She maintains that there has been no prejudice unless PS A wishes to rescind his admissions.
10. Ms Shah submits that the proper course of action is for PS A to argue how his conduct only amounts to misconduct, rather than gross-misconduct.
11. I note the following chronology:
- i. PS A received the original notice setting out the severity assessment as misconduct on 17<sup>th</sup> November 2025.
  - ii. PS A was served with the Regulation 23 notice on 16<sup>th</sup> April 2026.
  - iii. The email reviewing the severity assessment was sent on Friday 24<sup>th</sup> April 2026
  - iv. PSU were informed of this email exchange on Monday 27<sup>th</sup> April 2026
  - v. PS A received the full bundle on Tuesday 28<sup>th</sup> April 2026, which included the email and the certificate holding that the allegation could amount to gross misconduct.
12. I consider that the statutory process has been correctly followed. Regulation 16(4) permits revision of the severity assessment at any point before the misconduct hearing. This was done. It is unfortunate that it had been communicated to PS A that it would be misconduct only, but I do not see this as having caused prejudice. It is merely regrettable, in my determination. It is still very much open to PS A to make submissions as to how his conduct is only misconduct, rather than gross misconduct.
13. I have considered Ms Steven's application revert these proceedings to Part 4. Per Regulation 49(5), if the AA determines that the special conditions are not satisfied, or that, although they are satisfied, the circumstances are such as to make certification inappropriate, it must proceed in accordance with Part 4 (reverting to a Misconduct Hearing).

14. I am satisfied that the AA have appropriately certified this case, such that the special conditions are met, and I am not persuaded that there are circumstances that make certification inappropriate. This case is focussed on text messages that were sent (and admitted as sent) by PS A. I am not satisfied that further evidence is necessary, beyond an explanation by PS A as to why these messages were sent on an MPS device. Accordingly, this matter will remain under Part 5.

## Introduction

15. I have had the benefit of the papers in advance of today and read them carefully before the hearing started. I am satisfied that all the required notices under the Police (Conduct) Regulations 2020 have been served: matters which have not, in any case, been disputed before me.

16. I have listened to the case presented on behalf of the Appropriate Authority by Ms Shah of Counsel. PS A has not provided a Regulation 54 response to the allegations. He is represented by Ms Stevens.

17. The allegation against PS A is as follows:

“

*Between April 2025 and September 2025, whilst serving as a Police Sergeant and using a Metropolitan Police Service issued mobile telephone, you engaged in extensive personal and inappropriate communications with an individual saved on your device as [REDACTED] whilst on and off duty, and without a policing purpose.*

*Particulars:*

- (i) Routine Lawful Business Monitoring conducted by the Digital Exploitation Team identified a substantial volume of messages sent and received on your MET-issued device.*

- (ii) *A forensic download confirmed approximately 400+ messages exchanged during this period.*
- (iii) *A number of those messages were personal and sexually explicit in nature, having no policing purpose.*
- (iv) *Several messages were identified as having been sent and received whilst you were on duty.*
- (v) *You later accepted in your written response, that the use of a work-issue mobile phone for such communications was inappropriate, unprofessional and contrary to policy.*
- (vi) *Any material of a sexually explicit or pornographic nature is considered unacceptable and in breach of Met ICT Policy (2.6.3)*

*In the circumstances, the Appropriate Authority contends that your actions breached the Standards of Professional Behaviour as set out in the Regulation 5 and Schedule 2 of the Police (Conduct) Regulations 2020 (as amended by the Police (Conduct) (Amendment) Regulations 2024, namely:*

*i. Discreditable Conduct*

*ii. Duties and Responsibilities*

*In that your conduct may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public.*

*As a result of that stated herein, if proven, your conduct individually or cumulatively amounts to gross misconduct, and your dismissal may be justified.*

*“*

18. PS A stated that he highly regrets everything. This was the biggest error of his life. He has never done anything like this before. Allegations were admitted.

### ***Factual Background***

19. I understand that the burden of proving the facts rests at all times on the AA, and the standard of proof is on a balance of probabilities.

20. The matter arises from information provided to the Directorate of Professional Standards by a Dissemination report dated the 19th September 2025.
21. Routine Lawful Business Monitoring was carried out by the Digital Exploitation Team on PS A's work issued mobile phone. The monitoring indicated that PS A had been sending and receiving sexual messages from an individual saved in his phone as [REDACTED].
22. The messages were sent both on and off duty.
23. On the 13<sup>th</sup> March 2026, a full log of the messages was received following a forensic download.
24. Between April 2025 and September 2025 over 400 messages were exchanged between the parties. Between June and July 2025, there were multiple messages from both parties that contained sexually explicit language and references to sexual acts.
25. Examples of sexually explicit messages include [pg.27-31 Bundle]:
- i. Received 17/06/25 "Babe you're turning me on" "Mmm babe I need you now" "Yeah babe, want to touch you and put my tongue all over it" [pg.29 Bundle]
  - ii. Sent 17/06/25 "Wear the naughtiest undies for me so I can tease you all over" "But don't worry I'll still give you a good time lol" " Show me what's hiding under that" [pg.29 Bundle]
  - iii. Sent 10/6/25 "You remembering our good times bouncing in the car or you bent over with your sexy ass in my face" [pg.27 Bundle]
  - iv. Sent 18/06/25 "Do you still have those crotchless panties you wore for me" [pg.29 Bundle]
  - v. Sent 18/06/25 "So I can get my tongue straight inside" [pg.29 Bundle]
26. On the 1<sup>st</sup> December 2025, PS A provided a response admitting to the conduct, expressing his deep regret.

### *Misconduct and gross misconduct*

27. I have to consider whether I am sufficiently satisfied to make a finding, on the balance of probabilities, of misconduct or gross misconduct. Misconduct is defined as a breach of the Standards of Professional Behaviour and Gross Misconduct is defined as a breach of the Standards of Professional Behaviour so serious that dismissal would be justified.

28. Ms Stevens made cogent submissions, stressing that there was no public complaint, and PS A was messaging a willing participant over whom no authority was being abused. This was not predatory, abusive or inappropriate behaviour.

29. That being said, on the evidence presented, I am satisfied that PS A has breached the Standards of Professional Behaviour as set out in Schedule 2 to the *Police (Conduct) Regulations 2020* in relation to all allegations. In particular, I conclude that PS A breached the Standards of Professional Behaviour in that:

- i. **Discreditable conduct:** PS A acted in a manner which discredited the police service and/or undermined the public confidence in it by sending sexually explicit messages on a MPS issued mobile telephone, including during times when you were on duty. This is a device that has been funded by the taxpayer. PS A knew that he should not have used his MPS issued device in this way. The Code of Ethics gives guidance, stressing the need to consider public perception in all the circumstances. This was not non-consensual messaging, but I do consider that members of the public would be rightly shocked that a device they funded (which was designed for being used for policing purposes), was being used whilst on duty to send sexual messages to pursue a sexual relationship. This being gross misconduct is reinforced by the duration over which messages were sent.
- ii. **Duties and Responsibilities:** Police officers must be diligent in the exercise of their duties and responsibilities. PS A knew that his use of

the MPS mobile telephone for personal interactions, especially of a sexually explicit character, was an unacceptable breach of the ICT policy. PS A's responsibilities as a police officer require him to carefully follow this important guidance.

30. Consequently, I find the matters of Discreditable Conduct and Duties and Responsibilities proven at the severity of gross misconduct.

## Outcome Decision

31. Following the College of Policing Guidance on Outcomes, I adopt a three-staged approach in order to determine the appropriate sanction.

32. The first stage is to assess the seriousness of the conduct. This is assessed by reference to:

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

33. The second stage is to keep in mind the purpose of the police misconduct regime. I remind myself that this has three elements:

- i. To maintain public confidence in and the reputation of the police service;
- ii. To uphold high standards and deter misconduct; and
- iii. To protect the public.

34. I further remind myself that the police misconduct regime is not designed to punish police officers - it is about the reputation and standing of the profession as a whole.

35. The third stage is to choose the outcome that most appropriately fulfils the purpose given the seriousness of the conduct in question.

36. In doing so, I remind myself that each case must be considered and determined on its own merits. In adopting the three-staged approach outlined above, I bear in mind PS A's record of service.

## Stage 1: the seriousness of the conduct

### *Culpability*

37. In considering PS A's culpability, I consider that this was intentional and deliberate behaviour to use a MPS device to send personal and explicit messages. There was no legitimate reason for him using his device for this.

38. I am particularly concerned about PS A having sent many of these messages, including sexually explicit ones, whilst on duty.

39. Accordingly, I find culpability at a high level.

### *Harm*

40. As per 4.66 of the Guidance, "harm will likely undermine public confidence in policing. Harm does not need to be suffered by a defined individual or group to undermine public confidence. Where an officer commits an act that would harm public confidence if the circumstances were known to the public, take this into account". I consider that all of PS A's actions would undermine confidence in the MPS. If the public were aware an officer using their work mobile on and off duty, to engage in sexual communications, they would be rightly concerned. The conduct is highly unprofessional, and the public would expect more from a serving police officer.

41. Accordingly, I consider the harm to be high level.

### *Aggravating factors*

42. I do consider that these matters are aggravated by how PS A had a leadership responsibility, where there is an expectation of acting as a role model. I also consider there being multiple breaches of the Standards of Professional Behaviour over time further aggravation.

### *Mitigating Factors*

43. I accept that PS A has admitted his behaviour was in breach of the standards of professional behaviour.

44. Personal mitigation is less relevant than in a criminal trial, and is dependent upon the extent to which the PS A's misconduct threatens public confidence.

Stage 2: the purpose of the misconduct regime

45. I have reminded myself of the threefold purpose of the police misconduct regime carefully in considering the appropriate outcome in this case, and I am satisfied that all elements are engaged in my considerations.

Stage 3: the appropriate outcome

46. It is unacceptable for police officers to use MPS devices to send sexually explicit messages. Doing so undermines public trust and confidence in policing as well as our reputation.

47. I have considered carefully whether there are exceptional circumstances in this case sufficient to disapply the presumption of dismissal. I note PS A's additional value added as an Arabic interpreter for the MPS. I am also conscious of the AA's initial determination that this was misconduct, and then revising the severity to gross misconduct, could be seen as unfair.

48. However, despite all of this, the gravity of PS A's behaviour means that I do not consider there to be any exceptional circumstances set out, and therefore dismissal without notice is the only option available to me.

49. Therefore, the only outcome I consider appropriate is dismissal without notice.

**OUTCOME:** Dismissal without notice and placed on the College of Policing Barred List

**Andy Brittain**

Commander

13<sup>th</sup> May 2026