

Misconduct Hearing Outcome of Former Inspector Akinwale Ajose-Adeogun, Former Detective Sergeant Rob Butters, Police Sergeant Mark Harper, Police Constable Myles McHugh, Former T/Detective Constable Hannah Rebbeck and Detective Constable Tyrone Ward – Held between 28th October – 15th November 2024

Introduction

1. The misconduct hearing for Former Inspector Akinwale Ajose-Adeogun, PS Mark Harper, Former DS Robert Butters, DC Tyrone Ward, PC Myles McHugh and Former T/DC Hannah Rebbeck ('the officers') was held in public on various days between 28 October – 15 November.
2. The allegations against each of the officers involved came to light on or after 1 February 2020 and therefore fall to be dealt with under the Police (Conduct) Regulations 2020 ("the Regulations") and Home Office Guidance (5 February 2020 – Version 1.0) ("the Home Office Guidance"). References to any specific Regulation in this document are to the Regulations unless otherwise stated.
3. Regulation 30 notices were issued pursuant to the 2020 Regulations, Regulation 31 responses were provided by all officers other than Former T/DC Rebbeck.
4. A notice of hearing was published in accordance with the Police (Conduct) Regulations 2020 ("the 2020 Regulations").
5. During the course of the hearing matters arose that required PC Tett's case to be severed from that of the other officers' case, therefore no further reference is made to her in this report.
6. The allegations against each of the officers concern the wrongful access to sensitive police information in March 2021 relating to the disappearance of Sarah Everard who was reported missing on 4 March 2021 and subsequent arrest of Wayne Couzens, then a serving Metropolitan Police Service Officer. The AA's case being that none of the officers concerned had a proper policing purpose to access the sensitive information.

7. In their responses pursuant to Regulation 31 of the 2020 Regulations, and at the outset of the hearings Former Inspector Akinwale Ajose-Adeogun, PS Mark Harper, Former DS Robert Butters, DC Tyrone Ward accepted that they had accessed the information as alleged but deny that the access was not undertaken in the course of their duties and/or had no proper policing purpose. PC Myles McHugh admits that he had no proper policing purpose and that the standards alleged were breached but states that these breaches would amount to misconduct. T/DC Rebbeck has not engaged and has not provided a Regulation 31 response.

Panel

8. The Panel consisted of Ms Sharmistha Michaels (Legally Qualified Chair "LQC") accompanied by Chief Superintendent Richard Smith and Mr John Vaughan Independent Panel member.

Attendance and Representation

9. At the misconduct hearing the Appropriate Authority ('AA') was represented by Mr Paul Ozin KC, Mr Daniel Hobbs and Mr Zander Goss.
10. Former Inspector Akinwale Ajose Adeogun was represented by Mr Michael Rawlinson, PS Harper and DC Butters by Mr Ben Summers, DC Tyrone Ward by Mr Neil Saunders. PC McHugh was represented by his federation representative Mr Leighton Gurney. Former T/DC Rebbeck did not attend and was not represented.
11. The Panel would like to thank all Counsel and representatives for their assistance in hearing this case.

Preliminary Matters

12. An application was made at a prehearing on in relation to joinder. This is the subject of a separate written ruling. No further applications were made for any reasonable adjustments in relation to the officers subject to the hearing or any of the witnesses.

13. An application was made on day one of the misconduct hearing by Mr Saunders, on behalf of DC Ward, for DI Griffiths to be called as a witness on behalf of DC Ward, the AA were neutral on this application. The LQC determined that it would be in the interests of justice for this witness to be called.

Evidence

14. The Panel had been provided before the hearing with the Misconduct Hearing bundle (2087 pages), Addendum bundle (115 pages). During the hearing the Panel were provided with the following additional documents: audit (not in chronological order): Misconduct Hearing Audit Bundle (124 pages); Additional statements re: PC McHugh (5 pages) MPS Information Code of Conduct(V5); MG11 DC Simpson; PowerPoint data protection warnings, Met Police Sarah Everard Investigation Update, Met Data and Technology Management policy, Use of Met computer systems policy intranet, NSPIS Custody Audit (718 pages), NSPIS Custody Screen Numbers Document; Met BCU Map; DS Butters audit (26 pages), PS Harper audit(548 pages), Various CARMS print outs for Officers shifts, DS Butters additional material and character bundle (29 pages), DS McHugh character bundle, DC Ward Character Bundle, DI Griffiths Witness Statement, DS Dawson witness statement, Full NSPIS audit document DS Butters, DC Ward Schedule, Ward Documents to Schedule re NSPIS; Annotated MG3; Emails and Statement Former PS Brian Gadd re NSPIS.

15. During the hearing, the Panel heard live evidence from the following witnesses: Detective Supt Bailey (AA expert); PS Wren; PS Murphy; DI Moulds; PC Nelson; Former Insp Ajoye-Adeogun; PS Harper; DS Butters; DI Griffiths; DC Ward and PC McHugh.

16. The Panel carefully considered all the evidence, and the material put before it including the additional material provided to the Panel during the hearing by the AA and on behalf of the Officers. The Panel had the benefit of the opening note /case summary on behalf of the AA as well as a closing note and oral submissions made on behalf of each party at the conclusion of the live evidence.

17. The Panel is required by Regulation 41(15) of the Regulations to review the facts of the case and decide whether the conduct of each of the officers' amounts to Misconduct, Gross Misconduct, or neither.
18. Throughout its decision making the Panel bore in mind the relevant standards of professional behaviour in making its findings as set out in Schedule 2 to the Police (Conduct) Regulations 2020. The Standards of Professional Behaviour alleged to have been breached by all six officers are set out below:

Confidentiality

Police officers treat information with respect and access or disclose it only in the proper course of police duties.

Orders and Instructions

Police officers only give and carry out lawful orders and instructions.

Police officers abide by police regulations, force policies and lawful orders.

Discreditable Conduct

The standard provides that Police Officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty

19. Regulation 2 defines misconduct and gross misconduct for serving officers as follows:

“Misconduct”... means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.

“Gross Misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.

20. Regulation 2 (modified by schedule 1 paragraph 1) defines misconduct and gross misconduct for former officers as follows:

“ Misconduct” means a breach of the Standards of Professional Behaviour that is not so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable”;

“Gross Misconduct” means a breach of the Standards of Professional Behaviour that is so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable

21. If the Panel makes a finding of Misconduct or Gross Misconduct, it must go on to consider what disciplinary action is appropriate. In relation to Gross Misconduct, the words “so serious as to justify dismissal” do not indicate that dismissal must result, rather that it is a possible outcome.
22. The Panel reminded itself that the burden of proof is on the AA throughout. In deciding matters of fact, the Panel have applied the civil standard, which is the balance of probabilities. Conduct would be proved on the balance of probabilities if the Panel were satisfied by the evidence that it was more likely than not, that the conduct occurred, unless facts are admitted.
23. The Panel reminded itself that the balance of probabilities is a single unvarying standard. “The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officers do not require a different standard of proof, merely careful consideration by the Panel before it is satisfied of the matter which has to be established. The inherent probability of the conduct occurring is itself a matter to be taken into account when deciding whether on the balance of probabilities, the conduct occurred.” 2020 HOG para 9.10.

Background

24. In determining the factual allegations, the Panel first considered the background of the cases.
25. The allegations against each of the officers concern the wrongful access to

sensitive police information in March 2021 relating to Ms Sarah Everard who was reported missing on 4 March 2021. The missing person investigation was initially led by the Safeguarding and CID units from Central South Borough Command Unit (AS BCU) and was subsequently handed over to the Major Investigation Team (MIT).

26. On 9th March 2021 at 19:50 hrs, former Police Constable Wayne Couzens was arrested on suspicion of the kidnap of Ms Sarah Everard. He was detained in Wandsworth Police Custody suite under reference 01WH/1557/21.

27. Audits were later conducted on all police indices which identified that seven police officers had accessed files relating to Wayne Couzens and Ms Sarah Everard. The investigation into this matter focused on access to various police databases and information namely: the Crime Report (or CRIS report); the Case Overview and Preparation Application (COPA file); National Strategy for Police Information Systems (NSPIS).

28. CRIS the electronic record, tracking a criminal investigation, containing entries by officers, as the case progresses. In this instance, the CRIS related to what started out as a missing person enquiry relating to Ms Sarah Everard and tracked developments as the investigation unfolded and became eventually a murder enquiry.

29. COPA an electronic file containing police reports and evidential documents used for charging and bail decisions, designed to be shared with the CPS for that purpose.

30. The custody record operated within NSPIS and records the personal and other relevant details relating to an arrested detained person, including the reasons for their arrest and detention. It contains entries tracking their treatment in detention, in order to give them their rights and comply with legal requirements. The whiteboard can also be found via NSPIS.

31. The AA submitted that the MPS limits access by police officers to police information to where there is a proper policing purpose in order to comply with

the MPS's obligations under the Data Protection Act 1998, which sets out the framework for the lawful processing of personal data. The principal MPS document which lays down this requirement is the Met Security manual Policy and Practice (METSEC Code). Each officer received one or more MPS training modules touching upon the limits of proper use of MPS computers and indices. Different modules were in use at different times. Officers accessing MPS indices are presented with a screen that reminds them of the data protection and security policies governing their use.

32. The AA brought these cases on the basis that none of the officers concerned had a proper policing purpose to access the sensitive information. The officers subject to these proceedings at the time of the alleged access were of different ranks and undertook different roles and were based in different locations.

Character

33. The Panel were told that the Officers' present were of good character and were provided with Character bundles for those some of them. At this stage of the proceedings an officer's positive good character is admissible in evidence. The Panel took account of evidence of good character in two ways, namely in respect of that Officer's credibility and in respect of the Officer's propensity to behave in the way alleged, per Collins J in Wisson v Health Professions Council [2013] EWHC 1036 (Admin) at [44]: "As it seems to me, good character must always be likely to be relevant for the panel where there is a substantial issue of fact to be decided and where credibility of the registrant in the evidence that he gives, is an issue and it can also go to whether it is likely that he did what is alleged against him. Both aspects were prima facie material in relation to the findings that the panel had to make and the circumstances of this case." The Panel confirms that it has taken into account the Officers' positive good character in assessing the account given

Panel's findings in relation to each officer

34. In making its findings of fact, the Panel had full regard to all the documents as described above and the oral evidence and submissions. The fact that each

document is not referred to does not mean each document has not been carefully considered.

(FORMER) INSP AKINWALE AJOSE-ADEOGUN

35. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below:

A] In March 2021, you were a Custody Support Inspector at Croydon & Bromley custody suites. You are alleged to have accessed Wayne Couzens' custody record 01/WH/1577/21.

B] The said access of information took place on 10th March 2021 at 22:06 hrs and again on 12th March 2021 at 04:32 hrs and the relevant details of your access can be further particularised as follows:

- On 10th March 2021 from 22:06 hrs to 22:54 hrs, you accessed custody record 01WH/1557/21. You looked at the whiteboard details of the custody record for Wandsworth and then the front sheet of the custody record for Wayne Couzens which has sensitive personal details as well as details of the offence.*
- On 12th March 2021 at 04:32 hours, you accessed Wayne Couzens' custody record (01WH/1557/21).*

C] The above access to information (whether proved individually or collectively) was not undertaken in the course of your duties as a Custody Support Inspector at Croydon & Bromley custody suites and / or had no proper policing purpose.

D] Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.

Such matters, individually and / or cumulatively, amount to gross misconduct which is so serious that your dismissal is justified.

36. At the relevant time Former Inspector Ajose-Adeogun was the Custody Support Inspector (CSI) with responsibility for Croydon and Bromley custody suites in

the South Area BCU.

37. Former Inspector Mr Ajose-Adeogun admitted at the outset of the hearing and in his regulation 31 response paragraphs A and B of the allegation as set out above. Former Inspector Mr Ajose-Adeogun denied gross misconduct and in particular, he denied that he deliberately accessed the information without a proper policing purpose.
38. The Panel noted the Former Inspector's explanation for accessing this information, that it was common practice for a CSI to have multiple custody suite screens open at any one time, including the whiteboard screens for other suites in the South Cluster as this allowed the monitoring of risk. He noted that he would usually open Bromley, Croydon and Wandsworth but would not open Kingston as Kingston caused displacement /impact onto suites in west of London not to Croydon. He described there being a clear policing purpose for looking at other white boards and that it would follow that when he sees someone marked in red on the custody whiteboard as exceptional risk that he would want to see what that risk involves and what the repercussions might be for his own suites in terms of staffing and resources, and impact and risk to detainees and anyone else in custody. He denied taking any particular interest in Wandsworth and was not aware that Wayne Couzens was there when he started his shift and that he had not seen anything in the press or anything to suggest that he had been detained in a South London police station. Nothing was handed over to him when he had arrived at Croydon for his shift to suggest that Wayne Couzens was at Wandsworth.
39. Former Inspector Ajose-Adeogun further explained that it was not uncommon for mistakes to be made in opening or putting the wrong custody suite on screen due to the way screens overlapped at the same time e.g. emails. He said that as far as he recalled the entry for Wayne Couzens was showing as red, indicating 'exceptional risk' on the whiteboard, and that he had believed that whiteboard to be the Croydon Custody suite where he was the CSI. That he had read through the risk and health section before he went and spoke to one of the custody sergeants who had told him there was no exceptional risk prisoner at Croydon. He stated that in his career he had not seen many

exceptional risk prisoners or personally dealt with them.

40. Former Inspector Ajose-Adeogun also noted that Croydon was one of the busiest custody suites and was busy when he started his shift but not unusually busy. He stated that when things are busy things can be easily missed, which is why his role as CSI involved making sure things are done correctly and risks are addressed and things put in place to keep detainees and staff safe. He noted that the Custody Suite was used as a backup for Wandsworth and when there was a pause in place it could get busier. He recalled that Wandsworth had at some point possibly put a pause in place, in terms of receiving new prisoners, and that Bromley and Croydon may have become increasingly busy as a result. He said he would therefore have sought to obtain further information as to the reason for the pause.

41. The Panel considered the audit documents produced and noted that there was no evidence from PC Wren in relation to the Former Inspector Ajose-Adeogun. PC Wren however in cross examination noted that the NSPIS system was not foolproof, mistakes could be made such as opening the wrong whiteboard, writing in the wrong custody record. The Panel considered the audit that showed Former Inspector Ajose-Adeogun had accessed the custody record and viewed the medical form and risk assessment for Wayne Couzens and the front sheet. In the Panel's opinion what was clear from the audit was that there was a common theme in terms of the documents that he would normally look at in his role as a CSI and this was not different in the documents he viewed for Wayne Couzens. He did not seek to look any further than these documents. The Panel also noted that the documents viewed did not refer to Sarah Everard.

42. The Panel noted the Operation Scarborough report says:

8.13 Croydon is one of the locations where detainees may be taken if Wandsworth is paused. There are no designated 'back up' suites but a pause is likely to mean detainees go to either the sister suite or the next nearest suites.

43. The Panel found Former Inspector Ajose-Adeogun to be a straightforward witness who demonstrated a commitment to engaging in the process despite

having retired earlier this year. It was clear to the Panel that he was an experienced custody officer of 12 years (sergeant and then CSI). In the Panel's view Former Inspector AJose-Adeogun indicated in his evidence a heightened awareness of safety in his custody suite since the well documented case in Croydon custody suite 2020 where a custody sergeant was shot and killed by a suspect.

44. The Panel noted that Det Supt Bailey was presented as an expert witness by the AA. The AA rely on Det Supt Bailey's evidence that a CSI is principally concerned with the sister suites for which they have direct responsibility and would need a specific additional reason to look at neighbouring suites. She noted in her evidence that she was aware that Custody staff viewed other suites' whiteboards and that this would happen regularly. She was clear that they would need to justify on each occasion how it was a policing purpose and that she discouraged this when she knew about it. The Panel considered that although Det Supt Bailey was a helpful and thoughtful witness, she by her own admission had a lack of frontline expertise and was also not able to provide a definitive view of a policing purpose other than her own definition. Having considered all of the evidence and her background the Panel did not attach the same weight to her evidence as a Custody expert as the AA invited the Panel to do in the circumstances. This is no criticism of the officer who was very frank about her experience and her role as a senior leader within Met Detention.

45. The Panel noted the statement provided by Inspector Franklin who said that "*Custody Sergeants have responsibility for all individuals detained in their suite. Custody Support Inspectors typically hold review responsibilities for more than one suite and as such would need to review demand and risk across more than one suite. I am not aware of any direction given or expectation set that would dictate that Custody Officers would or should scan the whiteboards of alternative suites, within their cluster or otherwise. This would be a fair expectation or reasonable action of a Custody Support Inspector as we would expect the Inspector to have strategic oversight of their area and the teams which operate under their supervision. A review of a whiteboard would enable a Custody Support Inspector to assess volume in a suite, the risk carried by the suite, demand by way of cell checks, review requirements and whether*

individuals had been charged and remanded or remained under investigation.”

The Panel took the view that this statement implied a more strategic oversight for a CSI than a Custody Sergeant in order to assess risk.

46. DS Murphy in his evidence stated that in his view it was “*pretty standard practice to look at other suite whiteboards and the reasons he used to do it was so he was able to challenge if they were closed, to his Inspector, as some were closed unnecessarily.*” He suggested that this would be a proper policing purpose as an experienced custody sergeant. The Panel noted that this seemed to contradict the evidence of Det Supt Bailey.

47. The Panel noted that in relation to training as a CSI there was no formal training package. This was confirmed by Det Supt Bailey who also stated that there was an expectation that CSIs would support each other. Former Inspector AJose Adeogun in his evidence stated that he had only had two hours of shadowing of another CSI although the Panel accepted that he would have had some training for his role as Custody Sergeant.

48. The Panel also noted the evidence of Former PS Gadd who confirmed that Wayne Couzens was marked as exceptional risk on 10 March 2021 before Former Inspect AJose Adeogun would have started his shift and would have shown as red on the whiteboard.

49. The Panel took the view that there were no clear instructions to CSIs regarding when and how they should be accessing other custody suites whiteboards. There was certainly no definitive evidence provided to suggest that they had been told not to. However, in any event the Panel considered that as a CSI Former Inspector AJose Adeogun would have had a wider brief including strategic oversight of custody demand and flow of prisoners beyond the immediacy of his custody suites.

50. The Panel took the view that the AA has not discharged the burden of proving on the balance of probabilities that Former Inspector AJose Adeogun’s access to information was not undertaken in the course of his duties as a Custody Support Inspector at Croydon & Bromley custody suites or that he had no proper policing purpose. As the Panel did not find the index factual allegation proved

at C, consequently, by accessing this information he did not act in breach of any of the standards set out in the Regulation 30 response. It would follow that there can be no finding of misconduct or gross misconduct in Former Inspector AJose Adeogun's case.

PS MARK HARPER

51. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below:

The Allegations

- A] *In March 2021, you were a Met Detention Custody Sergeant working at Croydon Custody Suite. You are alleged to have accessed Wayne Couzens' custody record 01WH/1557/21 whilst he was detained at Wandsworth. You are also alleged to have accessed the custody record of Olena Couzens 01PL/1153/21, the wife of Wayne Couzens, whilst she was detained at Lewisham custody suite.*
- B] *The said access of information took place between 10th and 13th March 2021 and the relevant details of your access can be further particularised as follows:*
- *You checked the custody record 'details page' of Olena Couzens on the 10th March 2021 at 08:23 hrs whilst she was detained at Lewisham Custody Suite under custody reference 01PL/1153/21.*
 - *You accessed Wayne Couzens' custody record 01WH/1557/21 between 10th and 13th March 2021 whilst he was detained at Wandsworth custody suite (which included but was not limited to looking at the offences recorded and the MG4 charges).*
- C] *The above access to information (whether proved individually or collectively) was not undertaken in the course of your duties as a Met Detention Custody Sergeant working at Croydon Custody Suite and / or had no proper policing purpose.*
- D] *Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.*

Such matters, individually and / or cumulatively, amount to gross misconduct which is so serious that your dismissal is justified.

52. At the relevant time PS Harper was the Custody Sgt with responsibility for Croydon custody suite in the South Area BCU.

53. PS Harper admitted, at the outset of the hearing and in his regulation 31 responses paragraphs A and B of the allegation as set out above. He denied gross misconduct and in particular, he denied that he deliberately accessed the information without a proper policing purpose. The Panel bore in mind PS Harper's good character throughout its deliberations and that he had recently passed the Inspector's exam.

54. As set out previously and not repeated here, the Panel accepts the evidence that there were common issues around the custody suites and access by Custody officers to the whiteboards of other suites and that there may have been circumstances where it would have been appropriate to do so provided there was a proper policing purpose. However, the Panel took the view that the Grip Sergeant Document was unambiguous and that it made it clear that the role of the Grip sergeant was, to scan detainee and custody suite risks within his own custody suite, not across other custody suites. The Panel differentiated the role of a grip sergeant from that of a CSI based on the evidence it had seen from Inspector Franklin and heard from Det Supt Bailey.

55. The Panel also noted the evidence of PS Murphy and the training he delivers to Custody Sergeants which contained clear warnings about improper access when accessing NSPIS and his evidence that you should not 'go nosing around' other custody suites without a proper policing purpose and that he would reinforce this in the Custody Sergeant training he delivered which PS Harper would have also received.

56. The Panel considered that the explanation given by PS Harper for looking at both Olena Couzens and Wayne Couzens on NSPIS. It noted that it had changed in the course of his evidence. During this evidence he noted that he

had been told by a colleague that one of the Couzens was being transferred, which is why he had checked the whiteboard at Lewisham for Olena Couzens to see if she was being transferred. The Panel took the view that this was materially different to the explanation given in his MG14 on 18 October 2022 where he stated, *“At the time of the index events I had read on the News that the Suspect was In-Hospital after sustaining an Injury whilst In-Custody. We had also heard that some of the Croydon Custody Officers may be sent over to Wandsworth to assist as an 'Uplift' in Staff to their usual strength or as a result of potential issues with the level of observation that Mr Couzens was under when this occurred. Having heard that news, I needed to know whether Wandsworth had been 'Closed' as part of a possible Critical Incident investigation in relation to what occurred, was reducing their number of Detainees in order to safely manage the risk in light of what had happened, or other information which may suggest that we would receive an increase in Detainees and to plan our Suite Management accordingly.”*

57. In a later statement of February 2023, he noted that he could not remember why he accessed Olena Couzens record and stated, *“ I cannot recall why I accessed Olena Couzens's records but there may be multiple reasons for me to do so. I might have been prompted to do so as someone might have asked a question and the only way to reply would have been to check the Handover Tab pertaining to the record.”*

58. The Panel were concerned about his justification for looking at Olena Couzens records, which appeared to be inconsistent with his previous accounts and something he could have mentioned earlier. It did not accept that his memory could have improved with the passage of time, although at times the Panel took the view that PS Harper often speculated during his oral evidence perhaps to try and assist the Panel.

59. Neither was it clear to the Panel how PC Harper's first account could be correct as the evidence before the Panel suggested that Wayne Couzens did not attempt self-harm until later on 10 March 21 which would have been several hours after PC Harper had accessed his and Olena Couzens' records.

60. In terms of the transfer the Panel also saw no evidence to suggest that at any point Wayne Couzens was going to be transferred to Croydon or any reason for doing so. While the Panel accepted that there was evidence to suggest that there may be times when prisoners might be displaced during a pause in a custody suite which could affect how busy Croydon or Bromley could become, there was nothing before it to suggest that there was any reason for a transfer. However, even if the Panel accepted that a transfer had been discussed with PS Harper then there still remained no explanation in the panel's view for why he would look at the Lewisham White board and at Olena Couzens details rather than Wayne Couzens. This is particularly given PS Harper's MG14 on 18 October 2022 where PC Harper had said, "*I navigated through his charge sheet to find out if Wayne Couzens remained under investigation for any other Offences, such as an exposure which had been reported in the News Media and, if he was coming over to our custody suite, whether I would have to organise forensic samples, clearing the custody for him to arrive, arranging a suitable Interview Room for Interviews to be conducted; or if all investigations had been concluded and he remained In-Custody only to await transportation to Court on Saturday 13th March 2021, while also arranging a suitable Cell and Corridor for him to be lodged in during this period. There was a chance that he would have come to Croydon as we are the back-up suite to Wandsworth and have the facilities and staff available to safely manage his detention.*"

61. The Panel considered having looked at the NSPIS audit that access was over four days during his shift on numerous occasions. The Panel took the view that having considered the evidence presented by the AA including the audit, the evidence of DS Murphy and the inconsistent statements of PS Harper in relation to transfer and accessing the records of OC that on the balance of probabilities the access to information as set out at A and B of the Allegation was not undertaken in the course of PS Harper's duties as a Met Detention Custody Sergeant working at Croydon Custody Suite and had no proper policing purpose.

Accordingly, the Panel has considered the evidence and finds on the balance of probabilities that Paragraph C of the Allegation is proved

62. The Panel has considered the facts as relied upon within the Regulation 30 Notice and the facts found by the Panel as set out above. The Panel is mindful that in considering the question of whether the facts as determined constitute a breach of the standards of professional behaviour, it must exercise reasonable judgement and give appropriate and careful consideration to the evidence. The Panel is also aware that when applying the SPBs in any decision or misconduct hearing they shall be applied in a reasonable, transparent, objective, proportionate and fair manner and, due regard shall be paid to the nature and circumstances of a police officer's conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny. The Panel notes that all police officers are in a position of trust and responsibility whether on or off duty.

Breaches of the Standards

63. The Panel determined that the conduct as found proved did amount to breaches of the standards, as set out in the Regulation Notice namely Confidentiality, Orders and Instructions and Discreditable conduct.

Gross Misconduct or Misconduct

64. Having found breaches of the standards as set out above, the Panel has carefully considered whether the breaches amounted to gross misconduct or misconduct.

65. The Panel reminded itself of the full circumstances of this case and the breaches of the standards found. In considering the issue of seriousness of the proven conduct, the Panel is aware that this is to be determined by reference to the officer's culpability for the misconduct; the harm caused by his misconduct. The panel noted that PS Harpers access was limited to the custody whiteboard details and the offence recording screens and that he did not look at more sensitive areas such as the medical form or risk assessment. He did not attempt to look outside NSPIS or obtain any further information.

The data accessed was particular to the Couzens. As a custody officer, in the course of his duties, the Panel considered that the reach of his authorised data access was wide where there was a proper policing purpose. However on balance the panel have concluded that on this occasion there was no proper policing purpose and that access to the data may have been driven by a curiosity to find out how the investigation was progressing,

66. The Panel took the view that the officer is solely responsible for his proven conduct, he knew that he should not have been accessing confidential information without a proper policing purpose but did on multiple occasions although the Panel do note that the documents that were viewed were limited in detail. The Panel bore in mind the seriousness of the breaches alleged and considered the relevant paragraphs of the College of Policing Guidance on outcomes The Panel concluded that the facts and multiple breaches of the standards as set out above individually and cumulatively did amount to gross misconduct and were arguably so serious as to justify dismissal.

DS Butters

67. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below (amended):

- A] *In March 2021, you worked on South Area Borough Command Unit (SN BCU) on the Drugs Focus Desk. You are alleged to have accessed Wayne Couzens' custody record 01/WH/1577/21.*
- B] *The said access of information took place on 10th March 2021 and the relevant details of your access can be further particularised as follows:*
- *On 10th March 2021, at 12.13 hrs, you accessed Wayne Couzens' custody record for ~~forty seven (47) seconds~~.*
- C] *The above access to information was not undertaken in the course of your duties in the South Area Borough Command Unit (SN BCU) on the Drugs Focus Desk and /or had no proper policing purpose.*
- D] *Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.*

Such matters, individually and / or cumulatively, amount to gross misconduct which is so serious that your dismissal is justified.

68. Former DS Butters admitted at the outset of the hearing and in his regulation 31 responses paragraphs A and B of the allegation as set out above. He denied gross misconduct and in particular, he denied that he deliberately accessed the information without a proper policing purpose.

69. The Panel noted that DS Butters faces a single allegation that at 12:13 on 10 March 2021 he accessed the Wandsworth Custody Suite record relating to Wayne Couzens (ref O1WH/1577/21). DS Butters asserts that he viewed the custody front sheet relating to Wayne Couzens for a proper police purpose, namely to proactively make himself aware of detainees at South Area Custody suites and other geographically proximate suites, who were under investigation for drug related offences, as part of his role as Desk Sergeant on the Drugs Focus Desk ('DFD'). He stated in his regulation 31 response and confirmed in his oral evidence that he had not at that time known of the significance of the name on the custody record, that he had been multi-tasking as he had been in a briefing call for Operation Carrera at the time he accessed the record and that the whiteboard indicated that the arrest was "other notifiable arrest" and not kidnap or murder. He confirmed in his oral evidence that he viewed the front sheet to find further details of arrest and when he saw it was not a drugs related matter, he closed the front sheet. The Panel note that the audit data supports this position. He stated that his team had been short staffed that day, he had been in the office and that he had genuinely believed he had had a policing purpose in checking the offence.

70. The Panel noted that in his evidence PC Wren confirmed when asked that the White board offence column could be overridden even though the front sheet would automatically populate the offence column. The AA have submitted that there would be no reason to do this and that no other officer who has given evidence or any that haven't had suggested that the whiteboard displayed "other notifiable offence." The Panel noted that none of the officers in the case accessed the whiteboard at the same time, that the Panel have not been presented with any evidence from a custody sergeant or CSI at Wandsworth on

the date in question and therefore the AA are unable to confirm whether the Whiteboard had been amended as described by DC Butters at the time he saw it.

71. DC Butters was clear that he would not have known who Wayne Couzens was at the time of the access to his custody record, and the Panel noted that none of the press releases provide that detail on the relevant date, or which custody suite Wayne Couzens was in.

72. The Panel considered the statement of DI Claire Guiver who was the manager of the DFD and line managed DC Butters she states, *“the role of the DFD was to support in custody drug cases, the expectation was that DS Butters and his team would proactively identify any such cases and contact the investigating officers to offer help. They would review the overnight briefing documents for drug related prisoners, complete overnight searches on MPS indices and check custody by looking at custody whiteboards. If they identified a prisoner in custody for a drug offence they would check that record for further details...”*

73. The Panel also considered the Drugs Related Violence Reduction Plan dated the 3/11/2020 drafted by DI Clare Christmas (Guiver) and the Plan for Drugs Focus Desk dated 18/11/2020 written by DS Butters which states , *“Officers on the DFD (Drugs Advisers) will give advice, guidance and input to officers across all strands, on all PWITS investigations to help convert arrests into charges and convictions. They will review NSPIS daily for drug arrests and liaise with OICs directly or on the phone.”* It further sets out, *“ At this time the Met does not collate data relating to drug related violence. Many of these incidents go unreported or are "hidden" within other crimes eg an aggravated burglary where the motivation was to steal drugs or cause harm to drug runners.”*

74. The Panel noted the email for DI Thompson who had chaired the session called Met Wide Drugs Focus Desk Board who states, *“ As with any searching of police systems there needs to be a “policing purpose” and scanning local custodys [sic] for PWITS prisoners which may have been arrested on your BCU (but in custody on another) would be included in that. I do not know the specifics of your case so can’t comment on that individually. I see it being no difference to*

checking daily briefings on Met Bats of surrounding BCU if you have policing purpose.” The Panel considered that rather than this being a caveat or exception as suggested by the AA in fact what this did was lend some weight to what had been said by DS Butters that he had not been sure what the offence was when he was carrying out his review of NSPIS.

75. The Panel note that the AA has asserted in their closing remarks that SW DFD was set up in the summer of 2020, and rely on the email from Jon Privett. The AA goes on to say that there would have been “no need for DS Butters to do the job designated to PC Hepburn in relation to suites in PC Hepburn’s BCU.” The Panel had sight of the statement of PC Hepburn who notes that he had only been in the role on the SW DFD since April 2023 leaving the Panel unclear if there was anyone carrying out checks on Wandsworth at the relevant time when DS Butters accessed the information or indeed that he was precluded from checking Wandsworth for his own BCU suspects.
76. The Panel also noted that the audit records showed that DS Butters accessed other custody records around London including in Brixton, Peckham and Charing Cross, as well as numerous other white boards, which the audit data does not name. The Panel took the view that this supported what DS Butters had said in his evidence about his role as a DFU sergeant and that there were proactive aspects of the duties such as routinely scanning NSPIS and other indices which would normally have fallen to officers he was supervising but on the relevant date there was only one other officer working with him. These are not new matters being raised by DS Butters but were raised in his MG14.
77. The Panel considered that it had not been provided with any evidence, but was being asked to speculate what DS Butters may have heard about the Sarah Everard investigation on his way into work at Sutton Police station, during his briefing on operation Carrera or on the news/intranet. The Panel accepted DS Butters’ explanation that when first asked about the Sarah Everard investigation and his access to confidential information he had not remembered that he had seen Wayne Couzens’s name in the brief time that he viewed the custody record.
78. The Panel took the view that the AA has not discharged the burden of proving on the balance of probabilities that Former DS Butters access to information

was not undertaken in the course of his duties or that he had no proper policing purpose. As the Panel did not find the index factual allegation proved at C, consequently, by accessing this information he did not act in breach of any of the standards set out in the Regulation 30 response. It would follow that there can be no finding of misconduct or gross misconduct in Former DS Butters' case.

DC TYRONE WARD

79. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below (AMENDED):

A] *In March 2021, you were working in the Safeguarding Unit on South West Borough Command Unit. You are alleged to have accessed the custody record of Wayne Couzens including the detention log. You are also alleged to have accessed the 'Case' & 'MG3 summary' relating to Wayne Couzens.*

B] *The said access of information took place on 10th and 11th March 2021 and the relevant details of your access can be further particularised as follows:*

(i) *On 10th March 2021, you accessed the 'custody record front sheet' and/or 'detention log' within 01WH/1557/21 at 14:52 hrs (for **26 seconds** ~~13 minutes odd~~*

80. (iB) On 10th March 2021 you accessed the 'detention log' within 01WH/1557/21 at 15:02 hrs (for 191 seconds)

81. *On 10th March 2021, you accessed the 'custody record front sheet' and / or 'detention log' within 01WH/1557/21 at 16:40 hrs (for 89 seconds);*

82. *On 10th March 2021, you accessed the 'case' and / or 'MG3 summary' within COPA file 01MP/471/21 at 15:41 hrs;*

83. *On 11th March 2021, you accessed the 'detention log' at 08:55 hrs (for 41 seconds).*

84. *The above access to information (whether proved individually or collectively) was not undertaken in the course of your duties in the Safeguarding Unit and*

85. */ or had no proper policing purpose.*

86. *Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.*

87. *Such matters, individually and / or cumulatively, amount to gross misconduct which is so serious that your dismissal is justified.*

88. DC Tyrone Ward admitted at the outset of the hearing and in his regulation 31 responses paragraphs A and B of the allegation as set out above although he disputed the timings. The AA amended the allegation, and it was confirmed on behalf of DC Ward that he admitted the facts as set out in A and B . He denied gross misconduct and in particular, he denied that he deliberately accessed the information without a proper policing purpose.

89. The Panel heard evidence from DI Moulds who detailed the role and expectations of DS's on her Reactive investigation teams. DI Moulds confirmed that she had an expectation that all of her DS's would be proactive in identifying prisoners requiring CSU attention and ensure that staff are dispatched to the relevant custody suite to process them to stop prisoners remaining in custody for longer than necessary. She also stated that she would expect her DS's to search the custody database 'NSPIS' at least once during the shift to identify possible CSU prisoners. She goes on to say in her statement, "*DS will routinely check the South West Custody suites on the NSPIS 'Whiteboard'*" which shows all prisoners held at that location and the offence details. The Panel noted that Wandsworth would have been one of the Southwest Custody suites that would routinely be checked.

90. DS Griffiths in his evidence confirmed that the offence of 'kidnapping' may fall within the remit of their team and that this would often be incorrectly categorised as kidnapping when it should be described as false imprisonment, although he said kidnapping may also fall within their remit. He further stated that the COPA system is not user friendly and that you have an option to complete a download which opens into a word document so you can see it in more detail. When asked during cross examination, whether DC Ward being on a spare shift at the time he accessed the information would change his views. DI Griffiths stated that it would not affect the opinion he had expressed. He set out the role of the spare but also noted that if A/DS Ward was on the Spare shift he would have been assisting the core duty DS, that would include reviewing the custody records to see what prisoners may be in custody. He went on to say that the job of the DS of CSU is to have a look at the whiteboard for the dedicated suites.

91. The Panel took the view that the evidence of DI Moulds and DI Griffiths supported the account given by DC Ward and did not materially differentiate

between the Spare vs the core shift to the extent suggested by the AA. The role described by DI Moulds and DI Griffiths implies a significant level of proactivity which in the Panel's view was not dependant on whether the DS is performing the Spare or Core role. It was in the Panel's view clearly dependent on resourcing on each day. What was apparent to the Panel was that DC Ward in his role as A/DS Ward at the time would have been required to proactively check NSPIS and other indices for prisoners that may fall within the CSU remit. That the Safeguarding team were allocated to cover the custody suites at Kingston and Wandsworth and that kidnapping would have been an offence relevant to his team. The Panel were assisted by the helpful schedule produced on behalf of DC Ward which detailed a productive and conscientious officer.

92. The Panel took the view that the **AA has not discharged the burden of proving on the balance of probabilities that DC Ward's access to information was not undertaken in the course of his duties or that he had no proper policing purpose**. As the Panel did not find the index factual allegation proved at C, consequently, by accessing this information he did not act in breach of any of the standards set out in the Regulation 30 response. It would follow that there can be no finding of misconduct or gross misconduct in DC Ward's case.

PC MILES MCHUGH

93. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below:

- A] *In March 2021, you were based at the Safer Transport Command in Hillingdon. You are alleged to have accessed documents relating to Wayne Couzens within CRIS report 1205390/21.*
- B] *The said access of information took place on 5th, 6th, 7th, 8th & 9th March 2021 and the relevant details of your access can be further particularised as follows:*
 - (i) *On 5th March 2021, from 13:41 hours to 18:30 hours, you accessed CRIS 1205390/21. You viewed the general information page, the investigation log,*

witness' details and a victim summary;

- (ii) On 6th March 2021, from 16:36 hours to 16:58 hours, you accessed CRIS 1205390/21. You viewed the general information page, the investigation log and victim summary;*
 - (iii) On 7th March 2021, from 20:40 to 21:04 hours, you accessed CRIS 1205390/21. You viewed the general information page and the investigation log;*
 - (iv) On 8th March 2021, from 06:54 hours to 19:58 hours, you accessed CRIS 1205390/21. You viewed the general information page and the investigation log;*
 - (v) On 9th March 2021, from 17:40 hours to 23:37 hours, you accessed CRIS 1205390/21. You viewed the general information page and the investigation log.*
- C] The above access to information (whether proved individually or collectively) was not undertaken in the course of your duties in the Safer Transport Command in Hillingdon and / or had no proper policing purpose.*
- D] Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.*

Such matters, individually and / or cumulatively, amount to gross misconduct which is so serious that your dismissal is justified.

94. At the relevant time PC Miles McHugh worked within the Safer Transport Team for Roads and Transport Policing (MO8), based at Hillingdon Police Station. He accepts that he had no connection to the investigation into Sarah Everard's disappearance.

95. PC McHugh admitted at the outset of the hearing and in his regulation 31 responses paragraphs A and B and C of the allegation as set out above. He

denied gross misconduct but accepted that his conduct would amount to misconduct. He accepts that he had no connection to the investigation into Sarah Everard's disappearance and expressed remorse for what he described as his 'naïve' belief that he could assist the investigation in some way and help find her. He expressed remorse for his actions and the impact on the SE family and provided some background to his health at the time although the Panel did not have any medical evidence. The Panel bore in mind that PC McHugh was not legally represented and engaged fully with the proceedings.

96. The Panel has carefully considered whether the breaches amounted to gross misconduct or misconduct. We have again reminded ourselves of the full circumstances of this case and the breaches of the standard that we have found. The Panel bore in mind the seriousness of the breaches alleged and considered the relevant paragraphs of the College of Policing Guidance on outcomes.

97. The Outcome guidance sets out at para 4.34

The misuse of police computer systems or confidential police information more generally is a particular concern for the police service. Police computer and manual systems hold a significant amount of information about members of the public. Most of this is sensitive, and it is both a public expectation and a legal requirement that information obtained during the course of policing duties should be treated in strictest confidence, properly protected and used only for legitimate policing purposes.

para 4.36 Accessing confidential police information without a legitimate policing purpose is an abuse of an officer's position.

98. In considering the issue of seriousness of the proven conduct, the Panel is aware that this is to be determined by reference to the officer's culpability for the misconduct; the harm caused by his misconduct. The Panel took the view that the officer is solely responsible for his proven conduct, he knew that he should not have been accessing confidential information without a proper policing purpose but did so on multiple occasions. PC McHugh accepts that he

had no connection to the investigation into Sarah Everard's disappearance and despite this, accessed documents relating to the Sarah Everard missing person investigation within CRIS report (crime report) 1205390/2126 on 5th, 6th, 7th, 8th & 9th March 2021.

99. The Panel noted from the CARMS printout that PC McHugh was off duty or on study leave for some of the dates when he accessed the information. There was no evidence to suggest that he did attempt to help the investigation in any way despite this being the reason he suggests for his initial access. Further it was clear from the evidence heard that he had limited knowledge of the area from which Sarah Everard was taken and had not worked there in any significant professional capacity. No evidence was offered that he would have been able to offer any meaningful support to the investigation team. His access in the Panel's view was centred on his curiosity about the investigation into Sarah Everard's disappearance. The CRIS report contains detail of her medical history, her relationships, her employment, her character and her lifestyle. This is deeply personal data in the Panel's view entrusted to the Metropolitan Police Service, for the purposes of progressing a complex investigation. The provision of such personal information to a public institution is a serious responsibility and all officers must discharge this responsibility to a high, consistent standard.

100. In relation to harm caused, the impact caused by the officer's actions can be viewed in several ways. Actual harm has been caused to Sarah Everard's family and to public confidence by the proven conduct. The Panel bore in mind the seriousness of the breaches alleged and considered the relevant paragraphs of the College of Policing Guidance on outcomes. The Panel took the view that the conduct proved demonstrated an egregious breach of the trust placed in the police, which will have a significant impact on public confidence. The Panel concluded that the facts and multiple breaches of the standards as set out above individually and cumulatively did amount to gross misconduct and were arguably so serious as to justify dismissal.

101. The factual particulars of this allegation are set out in the Regulation 30 notice as set out below

- AJ In March 2021, you were working in the Community Safety Unit (CSU) as part of the Safeguarding team in Kingston. You are alleged to have accessed documents relating to Wayne Couzens within COPA file 01MP/471/21.*
- BJ The said access of information took place on 10th, 12th and 15th March 2021 and the relevant details of your access can be further particularised as follows:*
- (i) On 10th March 2021, you viewed the COPA file between 22:20 hrs and 22:23 hrs examining the MG3 Summary, exhibits list (MG12) and downloading DC Kerr's 'Urgent Notes Early Evidence Kit' (EEK);*
 - (ii) On 12th March 2021, you viewed the COPA file between 12:04 hrs and 12:10 hrs downloading several statements (MG11s) and Sarah Everard's X-Rays. You also examined the MG6 series;*
 - (iii) On 12th March 2021, you viewed the COPA file at 21:38 hrs and 21:40 hrs (after your shift had ended) examining the MG3 Summary and Decision, the MG12 and downloading a sales receipt;*
 - (iv) On 15th March 2021 (your rest day), you accessed the COPA file between 10:08 hrs and 10:09 hrs examining the charging decision (MG4) and case file.*
- CJ The above access to information (whether proved individually or collectively) was not undertaken in the course of your duties in the Community Safety Unit as part of the Safeguarding team in Kingston and / or had no proper policing purpose.*
- DJ Accordingly, you have breached the Standards of Professional Behaviour pertaining to Confidentiality and / or Orders & Instructions and / or Discreditable conduct.*

102. At the relevant time former T/DC Rebbeck was working in the Community Safety Unit as part of a Safeguarding team based in Kingston. She resigned after the allegations came to light. She has not engaged or filed a Regulation 31 response.

103. The Panel had sight of T/DC Rebbeck's MG14 response 6 October 2022 under caution to the misconduct allegations. In her MG14 T/DC Rebbeck accepted accessing COPA on each occasion. The Panel had sight of the COPA audit for T/DC Rebbeck which demonstrates the number of times she accessed information, and the type of information downloaded. Former T/DC Rebbeck stated that on 10 March, she was sent from Kingston Eagle House to Wandsworth custody suite to process a prisoner who was in a cell next to Wayne Couzens. She said that, although she was not involved with the investigation into Wayne Couzens, she was sat opposite the 'murder investigation team' who were at Wandsworth dealing with Wayne Couzens and the CID office was full, and there was general talk around the office regarding the case and what was happening to him and what was happening in the investigation. She said that her initial access of the file and its contents on the evening of 10 March 2021 was for her 'own interest and curiosity about what was happening with the case'. T/DC Rebbeck goes on to say that on 12 March she revisited the COPA file because she felt 'invested and curious about the investigation' and wanted to learn about the developments in the case. On 15 March, she said, she accessed COPA from home because she was 'anxious and curious to know whether or not Couzens had been charged'. She stated that none of the information was accessed or viewed or shared by her with anyone else. In her MG14 T/DC Rebbeck accepted in hindsight that her accessing COPA was unacceptable and without a policing purpose.

104. The Panel further noted that in her MG14 T/DC Rebbeck states, "*Every time we access the COPA system, we must accept the conditions of Use of MPS Information and ICT Systems which I do recall having to have done before accessing this case file.*"

105. In relation to T/DC Rebbeck's explanation about attending Wandsworth Custody Suite, the Panel had sight of a statement of PC Victoria Myers of PSD who ran an EBACS audit, which records each time a constable uses his or her warrant card and PIN to enter a secure MPS facility. She notes, "Any entry to Wandsworth custody would have been noted on EBACS, but Ms Rebbeck's records show that she went between Kingston Eagle House and Kingston

Custody on 10 March, with no visit to Wandsworth custody. Furthermore, PC Myers reports that there is no record of T/DC Rebbeck making entries on CRIS or COPA for any prisoners at Wandsworth custody on 10 March.

106. The Panel noted the training that Former T/DC Rebbeck had taken which included the Foundation Detective Course, which reminds students not to 'surf' MPS indices, to only use information for official policing purposes as part of one's public duty, and that accessing personal data without authorisation may breach the Data Protection Act.

107. In light of the audit and admitted access to the COPA file without a policing purpose the Panel concluded that the AA had discharged the burden of proving Facts A-C on the balance of probabilities.

Breaches of the Standards

108. The Panel has considered the facts as relied upon within the Regulation 30 Notice and the facts found by the Panel as set out above. The Panel is mindful that in considering the question of whether the facts as determined constitute a breach of the standards of professional behaviour, it must exercise reasonable judgement and give appropriate and careful consideration to the evidence. The Panel is also aware that when applying the SPBs in any decision or misconduct hearing they shall be applied in a reasonable, transparent, objective, proportionate and fair manner and, due regard shall be paid to the nature and circumstances of a police officer's conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny. The Panel notes that all police officers are in a position of trust and responsibility whether on or off duty.

109. The Panel determined that the conduct as found proved did amount to breaches of the standards, as set out in the Regulation Notice namely Confidentiality, Orders and Instructions and Discreditable conduct.

110. Having found breaches of the standards as set out above, the Panel has carefully considered whether the breaches amounted to gross misconduct or misconduct.

111. The Panel has again reminded itself of the full circumstances of this case and the breaches of the standards that it has found and the type of information accessed.

112. In considering the issue of seriousness of the proven conduct, the Panel is aware that this is to be determined by reference to the officer's culpability for the misconduct; the harm caused by his misconduct. The Panel took the view that the officer is solely responsible for her proven conduct, she knew she should not have been accessing confidential information without a proper policing purpose but did so on multiple occasions. Her access in the Panel's view was centred on her curiosity about the investigation into Sarah Everard's disappearance. The data she accessed was Sarah Everard and her family and friends' sensitive personal data and the access in the Panel's view was it was targeted access, the type of information viewed included for example x-rays. This is deeply personal data, in the Panel's view was entrusted to the Metropolitan Police Service, for the purposes of progressing a complex investigation. The provision of such personal information to a public institution is a serious responsibility and all officers must discharge this responsibility to a high, consistent standard which T/DC Rebbeck did not.

113. In relation to harm caused, the impact caused by the officer's actions can be viewed in several ways. Actual harm has been caused to Sarah Everard's family and to public confidence by the proven conduct. The Panel bore in mind the seriousness of the breaches alleged and considered the relevant paragraphs of the College of Policing Guidance on outcomes. The Panel took the view that the conduct proved demonstrated an egregious breach of the trust placed in the police, which will have a significant impact on public confidence The Panel concluded that the facts and multiple breaches of the standards as set out

above individually and cumulatively did amount to gross misconduct and were arguably so serious as to justify dismissal.

DECISION ON OUTCOME

114. Having reached the conclusion that the conduct of PS Harper, PC McHugh and Former T/DC Rebbeck amounted to Gross Misconduct, the Panel went on to consider what the appropriate outcome in this particular case should be.

115. Regulation 42(14) procedure provides that when considering the question of disciplinary action, before any such question is determined, the Panel:

- Must have regard to the record of police service of the officer concerned.
- May receive evidence or any witness whose evidence would, in their opinion, assist in determining the question; and
- Must give the officer concerned, his police friend or relevant lawyer, and the appropriate authority, an opportunity to make oral or written representations.

116. The Panel heard submissions from Mr Ozin KC as to the appropriate outcome and from Mr Summers on behalf of PS Harper and also from PC McHugh. Former T/DC Rebbeck did not make any representations. The Panel also had sight of all three officers' service records (Employee validation report) and a bundle of character references provided on behalf of PS Harper and PC McHugh.

117. In determining the appropriate outcome, the panel applied the principles set out in *R(on the application of the Chief Constable of Greater Manchester Police) v Police Misconduct Panel [2018] 11 WL UK 822* and *R (on the application of Chief Constable West Midlands Police) v Panel Chair, Police Misconduct Panel v Former officer "A"-Interested Party [2020]EWHC 1400 (Admin)* which emphasise the importance of following the structured approach as set out in the College of Policing Guidance on Outcomes in Police Misconduct Proceedings ("the Guidance"). The Panel reminded itself that in reaching its decision on outcome

the Panel must have regard to the public interest, which includes the need to protect the public, to maintain confidence in the police service, and to declare and uphold proper standards of conduct and behaviour. References to Paragraphs below are references to the Guidance.

118. The Panel approached its decision on outcome in three stages to determining the appropriate sanction:

Stage 1: Assess the seriousness of the misconduct.

Stage 2: Keep in mind the purpose of disciplinary action namely which includes the need to protect the public, to maintain confidence in the police service, and to declare and uphold proper standards of conduct and behaviour.

Stage 3: To determine the outcome which most appropriately fulfils that purpose for the seriousness of the conduct in question.

119. In assessing the seriousness of the conduct found proven we had regard to 4 issues namely:

- 1) The culpability borne by the officers for their actions.
- 2) The harm caused by the officers by their actions
- 3) The existence of any aggravating factors.
- 4) The existence of any mitigating factors

120. The Panel approached its assessment of seriousness by considering each of the remaining officers separately.

PS HARPER

121. Dealing with PS Harper first, the Panel assessed his culpability, that is the blameworthiness of the conduct, from his actions found proven by determining the seriousness of the misconduct.

122. The Panel considered paragraph 4.10 of the Guidance and looked at the factors set out in culpability:

4.10 Conduct that is intentional, deliberate, targeted or planned will generally be more culpable than conduct that has unintended consequences, although the consequences of an officer's actions will be relevant to the harm caused.

123. The Panel has already conducted an assessment of 'seriousness' and formally adopts its earlier reasoning here and adds the following. PS Harper at the relevant time was an experienced PS and supervisor, he had been trained on the use of the system and he had been trained on what it means to comply with data protection. He was at the relevant time on duty in the Croydon Custody suite and would have been using NSPIS in the way he normally would have done during the course of his work where he had a proper policing purpose. He did not access NSPIS only in order to look at the Wayne Couzens records or whilst off duty. Whilst his access was repeated it was over 3 shifts the day shift 10 March, day shift 11 March and night shift 12 going into the 13 March. The Panel accept that despite this access being repeated it related to one case and there is no evidence before this panel to suggest he had done this before i.e. accessed data without a proper policing purpose, there has been no repetition of this misconduct, he remains as a custody sergeant albeit with certain restrictions.

124. The Panel considered that the nature of the data accessed was relevant in the context of its deliberations on culpability as it had already set out in its previous findings in relation to the degree of intrusion. The Panel considered §4.34, §4.35 and §4.36 of the guidance in relation to Data Protection and misuse.

Para 4.36 states

Accessing confidential police information without a legitimate policing purpose is an abuse of an officer's position and may merit dismissal in serious cases...

125. Para 4.37 set out the facts that would support a more serious outcome. The Panel took the view that only one of the factors apply here in relation to the explanations of why he accessed the data and the inconsistencies with his

earlier accounts. Although the Panel had noted that at times PS Harper had speculated during his evidence.

126. The Panel noted that the AA accepts that PS Harper's conduct does not involve the same type of intrusive access to data as some of the other officers, but the AA maintains that the matter is nonetheless at the very serious end of the scale due to the volume and number of instances of access over a number of days and the officer's lack of candour. The Panel however took the view that the type of data he accessed was limited and would have contained very little information when he had accessed the custody whiteboard details, the offence recording screens, and he did not look at more sensitive areas such as the medical form or risk assessment. He did not attempt to look outside NSPIS or obtain any further information. The data accessed was particular to the Couzens. Had he had a proper policing purpose the data he accessed would have been what he would have typically looked at as a Custody Sergeant. The Panel had taken the view previously that he had accessed the data out of a professional curiosity as to how the investigation was progressing in terms of the charging decisions not SE herself and he had never denied his access to this information.

Harm

127. In determining harm, the Panel considered paragraphs 4.66 of the Guidance:

4.66 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. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims.

128. The Panel concluded that PS Harper's behaviour has undermined public confidence in the police. The Guidance makes it clear that harm to public confidence in policing is serious and that in cases where the behaviour has or could have caused serious harm to individuals, the community and or public confidence in the police service dismissal is likely to follow (4.74). In relation to

the actions of PS Harper the type of harm caused was in the main *reputational* harm. The Panel noted that there had not been any evidence of any specific or direct impact on the investigation. This case attracted some media interest prior to the hearing and the Panel considered that PS Harper's proven misconduct would be likely to have caused reputational harm to the police service and undermine public confidence in policing. Although the Panel also took the view that the level of harm was also dependent on the circumstances in which the data was accessed, and the type of data accessed and in PS Harper's case this was limited in detail.

Aggravating factors.

129. Being careful not to double count the Panel have identified the following aggravating factors:

- National concern
- Multiple breaches of the standards of professional behaviour.
- Deviation from policy or national guidance
- Leadership responsibility acting as a role model.
- Targeting of files of Olena and Wayne Couzens

Mitigating factors.

130. The Panel takes the following as mitigating factors:

- contribution to the police service,

131. In assessing seriousness, the Panel took the view that given the factors considered above, PS Harpers actions were at the lower -mid scale of seriousness.

Stage 2 : Keep in mind the purpose of disciplinary action

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

- (a) To maintain public confidence in, and the reputation of, the police service.
- (b) To uphold high standards in policing and deter misconduct.
- (c) To protect the public by preventing an offending officer from committing similar misconduct again by excluding them from the police service.

133. As set out at part 4.4 - *“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: Choose the outcome which most appropriately fulfils that purpose for the seriousness of the conduct in question.

134. The Outcomes Guidance 2023 sets out that at paragraph 3.12, the disciplinary action available at a misconduct hearing where the conduct of the officer concerned amounts to gross misconduct, in accordance to 41 (15), (i) a final written warning; (ii) reduction in rank (iii) dismissal without notice. The final written warning may, subject to section regulation 41 (10) extended for a maximum period of five years.

135. The Panel noted the testimonials provided on his behalf which spoke positively of him and his abilities as an officer, as well as his HR and training records. The Panel also further noted that PS Harper had no previous disciplinary history. The Panel has also taken into account the Guidance which states that personal mitigation is to be taken into account, however its impact will be limited in police misconduct hearings because of the need to maintain public confidence in the police. In considering the appropriate weight to place on personal mitigation, the Panel has been guided by the decision of Holroyde J in the case of *Williams v The Police Appeals Tribunal* [2016] EWHC 2708. The judgment makes it clear that the weight to be attached to personal mitigation in any particular case is necessarily limited owing to the importance

of maintaining public confidence and respect in the policing service. Accordingly, personal mitigation is relevant, and the Panel has taken it into account but attached limited weight.

136. The Panel considered its findings and considered its previous assessment of seriousness. The Panel considered the entire range of the disciplinary sanctions open to it and reminded itself that the object of misconduct proceedings is not to punish Police Officers and that the Panel should consider less severe outcomes before more severe outcomes, choosing the least severe outcome which adequately addresses the issues identified while protecting the public interest. The Panel kept in mind the purpose of imposing sanctions and the need to choose a sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

137. The Panel has considered again the full detail of this case and the entirety of the factual context. The Panel has read all of the evidence presented to it regarding the officer's record of service and the bundle of character evidence presented on behalf of PS Harper.

138. The Panel considered on balance that the outcome of a Final Written warning would be sufficient and proportionate, however in light of the seriousness as assessed by the Panel, the public interest and the circumstances of this case the Panel have decided to extend the period of the Final written warning to 3 years to address the reputational harm caused by PS Harper's misconduct.

PC McHugh

Stage 1: Seriousness of the misconduct

CULPABILITY

139. In determining the seriousness of the misconduct, the Panel considered PC McHugh's culpability first, that is the blameworthiness of the conduct. The Panel has already assessed 'seriousness' and formally adopts its earlier

reasoning here and adds the following. PC McHugh targeted access to a CRIS file which had nothing to do with his official duties. PC McHugh had suggested and maintains that he had information about a sex offender who frequented Clapham Common but failed to pass that information to the team investigating the SE matter. He carried on accessing the data extensively and cumulatively for a significant period of time up until the 9th March while off duty or on study leave in the most part although he did not access the data after the press announcement that Wayne Couzens had been arrested. The Panel agree with the AA that his conduct was *highly blameworthy in that he did not have a proper policing purpose. The guidance highlights that conduct that is intentional, deliberate, targeted or planned will generally be more culpable than conduct that has unintended consequences, although the consequences of an officer's actions will be relevant to the harm caused.*

140. The Panel considered that the nature of the data accessed was relevant in the context of its deliberations on culpability as it had already set out in its previous findings in relation to the degree of intrusion. His access in the Panel's view was centred on his curiosity about the investigation into Sarah Everard's disappearance. The CRIS report contains detail of her medical history, her relationships, her employment, her character and her lifestyle. The Panel again considered §4.34, §4.35 and §4.36 of the guidance in relation to Data Protection and misuse.

Para 4.36 states

Accessing confidential police information without a legitimate policing purpose is an abuse of an officer's position and may merit dismissal in serious cases. Accidental access to information without a legitimate policing purpose will not attract such an outcome.

141. *Para 4.37 set out the facts that would support a more serious outcome. The Panel took the view that the following apply in this case:*

- onward disclosure of information in that he attempted to discuss what he had seen with colleagues it
- breaches of personal privacy where the data is very sensitive.

Harm

142. In determining harm, the Panel considered paragraphs 4.66 of the Guidance which has been set out previously:

4.66 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. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims.

143. The Panel considered that the harm in PC Hugh's case extends to both the family of SE and public confidence in the police service. The Panel concluded that PC McHugh's behaviour has undermined public confidence in the police. The Guidance makes it clear that harm to public confidence in policing is serious and that in cases where the behaviour has or could have caused *serious* harm to individuals, the community and or public confidence in the police service, dismissal is likely to follow (4.74). The Panel maintained the view that the conduct proved demonstrated an egregious breach of the trust placed in the police, which will have a significant impact on public confidence

Aggravating factors.

144. The Panel has identified the following aggravating factors: .

- National concern
- Multiple breaches of the standards of professional behaviour.
- Deviation from policy or national guidance
- Failure to seek guidance from colleagues

Mitigating factors.

145. The Panel takes the following as mitigating factors:

- *Mental ill health or stress*

- *Early admissions of breach and his admission of misconduct*
- *Clear demonstration of genuine remorse for the impact of his actions on the Everard family.*

146. In assessing seriousness, the Panel took the view that given the factors considered above PC McHugh's actions were at the high end of seriousness due to the volume of access, the nature of the material accessed, and the other matters already discussed under culpability.

Stage 2 : Keep in mind the purpose of disciplinary action

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

- (a) To maintain public confidence in, and the reputation of, the police service.
- (b) To uphold high standards in policing and deter misconduct.
- (c) To protect the public by preventing an offending officer from committing similar misconduct again by excluding them from the police service.

148. As set out at part 4.4 - *"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: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

149. The Outcomes Guidance 2023 sets out at paragraph 3.12, the disciplinary action available at a misconduct hearing where the conduct of the officer concerned amounts to gross misconduct, in accordance to 41 (15), (i) a final written warning; (ii) reduction in rank (iii) dismissal without notice. The final written warning may, subject to section regulation 41 (10) extended for a maximum period of five years.

150. The Panel noted the personal mitigation raised and the testimonials provided on his behalf which spoke of him as a good and helpful officer, supportive of his

colleagues. The Panel also noted the Officer's evidence regarding his mental health struggles and his personal circumstances. The Panel were not provided with any medical evidence other than a referral to Occupational Health. The Panel also further noted that PC McHugh had no previous disciplinary history. The Panel has also considered the Guidance which states that personal mitigation is to be taken into account, however its impact will be limited in police misconduct hearings because of the need to maintain public confidence in the police. In considering the appropriate weight to place on personal mitigation, the Panel has been guided by the decision of *Holroyde J in the case of Williams v The Police Appeals Tribunal [2016] EWHC 2708*. The judgment makes it clear that the weight to be attached to personal mitigation in any particular case is necessarily limited owing to the importance of maintaining public confidence and respect in the policing service. Accordingly, personal mitigation is relevant, and the Panel has taken it into account but attached limited weight.

151. The Panel considered its findings and considered its previous assessment of seriousness. The Panel considered the entire range of the disciplinary sanctions open to it and reminded itself that the object of misconduct proceedings is not to punish Police Officers and that the Panel should consider less severe outcomes before more severe outcomes, choosing the least severe outcome which adequately addresses the issues identified while protecting the public interest. The Panel kept in mind the purpose of imposing sanctions and the need to choose a sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

152. Based on the assessment of seriousness that had been carried out, the panel came to the view that the appropriate sanction in this case is Dismissal Without Notice as any other sanction would fail to satisfy the purpose of these proceedings.

153. Ultimately, the Panel considered that a lesser sanction would be insufficient to reflect the importance of upholding high standards in policing, deterring misconduct and preserving public confidence in the police service.

T/DC Rebbeck

Stage 1: Seriousness of the misconduct

CULPABILITY

154. In determining the seriousness of the misconduct, the Panel considered T/DC Rebbeck's culpability first, that is the blameworthiness of the conduct. The Panel has already conducted an assessment of 'seriousness' and formally adopts its earlier reasoning here and adds the following. T/DC Rebbeck's access was targeted access to COPA to access highly sensitive personal data concerning Sarah Everard (including x-rays), this in the Panel's view places this misuse of data in the most serious bracket. She did so after it was announced that a Metropolitan Police officer had been arrested in connection with Sarah Everard's disappearance. This access had nothing to do with her official duties and in the Panel's view her explanation as to the circumstances that led to her accessing the files was untrue. The Panel took the view that her conduct was highly blameworthy. The Guidance highlights that conduct that is intentional, deliberate, targeted or planned will generally be more culpable than conduct that has unintended consequences, although the consequences of an officer's actions will be relevant to the harm caused.

155. The Panel considered that the nature of the data accessed was relevant in the context of its deliberations on culpability as it had already set out in its previous findings in relation to the degree of intrusion. Her access in the Panel's view was centred on her own morbid personal curiosity about the investigation into Sarah Everard's disappearance. The Panel again considered §4.34, §4.35 and §4.36 of the guidance in relation to Data Protection and misuse.

Para 4.36 states

Accessing confidential police information without a legitimate policing purpose is an abuse of an officer's position and may merit dismissal in serious cases. Accidental access to information without a legitimate policing purpose will not attract such an outcome.

156. Para 4.37 set out the facts that would support a more serious outcome the Panel took the view that

- actual or potential compromise to a police investigation
- breaches of personal privacy where the data is very sensitive

Harm

157. In determining harm, the Panel considered paragraphs 4.66 of the Guidance which has been set out previously:

4.66 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. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims.

158. The Panel considered that the harm in Former T/DC Rebbeck's case also extends to both the family of Sarah Everard and public confidence in the police service. The Everard family would have no doubt seen the press coverage in this case and the type of data that had been accessed. The Panel concluded that T/DC Rebbeck's behaviour has clearly undermined public confidence in the police. The Guidance makes it clear that harm to public confidence in policing is serious and that in cases where the behaviour has or could have caused serious harm to individuals, the community and or public confidence in the police service dismissal is likely to follow (4.74). The Panel maintain its view that the conduct proved demonstrated an egregious breach of the trust placed in the police, which will have a significant impact on public confidence

Aggravating factors.

159. The Panel have identified the following aggravating factors: .

- National concern
- Multiple breaches of the standards of professional behaviour.
- Deviation from policy or national guidance
- Failure to seek guidance from colleagues
- Failure to engage with these misconduct proceedings.

Mitigating factors.

160. The Panel takes the following as mitigating factors:

- Early admissions in relation to the access of COPA with no proper policing purpose

161. In assessing seriousness, the Panel took the view that given the factors considered above T/DC Rebbeck's actions were at the highest end of seriousness, due to the extreme sensitive nature of the material she accessed, the frequency of access, and the other matters already discussed under culpability.

Stage 2 : Keep in mind the purpose of disciplinary action

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

- (d) To maintain public confidence in, and the reputation of, the police service.
- (e) To uphold high standards in policing and deter misconduct.
- (f) To protect the public by preventing an offending officer from committing similar misconduct again by excluding them from the police service.

163. As set out at part 4.4 - *"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: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

164. The disciplinary action available at a misconduct hearing for a former officer where the conduct of the officer concerned amounts to gross misconduct is set out in Regulation 42 (as modified by para 32 Schedule 1 of the Regulations).

165. The Panel noted that no personal mitigation had been raised and no testimonials were provided on her behalf. The Panel was provided with T/DC Rebbeck's training and HR record and was told by the AA that she had no

previous disciplinary history. The Panel has also taken into account the Guidance which states that personal mitigation is to be taken into account, however its impact will be limited in police misconduct hearings because of the need to maintain public confidence in the police. In considering the appropriate weight to place on personal mitigation, the Panel has been guided by the decision of Holroyde J in the case of *Williams v The Police Appeals Tribunal [2016] EWHC 2708*. The judgment makes it clear that the weight to be attached to personal mitigation in any particular case is necessarily limited owing to the importance of maintaining public confidence and respect in the policing service. Accordingly, personal mitigation is relevant, and the Panel has taken it into account but attached limited weight.

166. The Panel considered its findings and considered its previous assessment of seriousness. Based on the assessment of seriousness that had been carried out, the panel came to the view that the appropriate sanction in this case is that the former officer would have been dismissed without notice had s/he still been a serving officer.

Right of Appeal

167. The Officers should be notified that they have a right of appeal to the Police Appeals Tribunal. The AA will provide a notice as to the procedure to be followed in that regard.

Sharmistha Michaels (Chair),
Chief Superintendent Richard Smith (PPM)
Mr John Vaughan (IPM)

Date: 20 November 2024