

Misconduct Hearing of Police Constable Muhammed Miah held between 28th October and 5th November 2024

In the matter of the Police (Conduct) Regulations 2020

Stage 1: Finding of Facts

Background

The allegations made against the Officer are as follows:

Conduct towards PC A

1. On or about January 2020 you inappropriately touched or grabbed PC A's bottom without her consent; and/or the touching or grabbing of PC A's bottom was sexual;

2. Between January 2020 and 13th January 2023 you pursued a course of conduct towards PC A whilst on duty which was inappropriate by:

(i) Saying to PC A 'you're shit, you don't know what you're doing, do ya, do ya', and / or,

(ii) Saying to PC A 'What are you going to do, fuck all the guys in the team?'

Conduct towards PC B

3. Between May 2021 and 14th February 2023 you pursued a course of conduct towards PC B which amounted to harassment by:

(i) Walking PC B to the local tube / train station; and / or

(ii) Waiting for PC B to finish work in order to walk with her to the local tube or train station; and / or

(iii) Sending inappropriate messages to PC B.

By acting in the way described above, you acted with **'Discreditable Conduct'** in that you behaved in a manner which discredits the police service and / or undermines public confidence in the police service; and you failed to treat your colleagues with respect and courtesy in breach of Standard of **'Authority, Respect and Courtesy.'**

Response to the Allegation

With regard to the Allegations as contained in the Regulation 30 Notice; the Officer in his Regulation 31 response denies the Allegations and that he breached the Standards of Professional Behaviour.

The Officer denied he had sexually touched or grabbed PC A on the bottom without consent.

The Officer accepts that he said words to the effect of *"What are you good at, other than shagging people on Team?"*. However, the Officer denied he said, *"You're shit, you don't know what you're doing, do ya"*.

The Officer accepts the admitted conduct constitutes a breach of the Standards of Professional Behaviour set out in the Regulation 30, but that it falls short of misconduct, as it is not so serious as to justify disciplinary action.

The Officer also accepted he had walked on two occasions with Officer B to Angel Underground station and accepts he did on one occasion, send a message to Officer B asking her to stop flirting with him. However the Officer denied that he pursued a course of conduct which amounted to harassment and denies he had committed the alleged breaches of the Standards of Professional Behaviour as alleged

Burden and Standard of Proof

The Panel has taken into consideration that the burden is on the Appropriate Authority (“AA”) to prove that the Officer behaved in the manner that is alleged; and that in doing so he breached the Standards of Professional Behaviour; and that the manner of the breach is of such a nature or degree that it amounts to misconduct or gross misconduct. The Panel does not need to make a finding on every issue and need only make findings on those issues which it believes to be relevant and material to the allegations.

The hearing was conducted in person and in public. The Officer was represented by Mr Charles McCombe of counsel and was supported by his Federation Representative PC Ben Gilks. The Appropriate Authority (‘AA’) was represented by Mr Jim Olphert of counsel. The Panel was provided with an electronic bundle of 134 pages which included the investigating officer’s report, a number of witness statements including those, from whom the Panel heard oral evidence, a transcript of the interview with the Officer as well as the Officer’s Regulation 31 Response.

The Panel heard oral evidence on behalf of the AA from Officer A and Officer B in addition to PC Ashley Ellis; DC Frankie McCann; A/Inspector Adam Brierley and PC Maximillian Morgan. The Panel also considered the witness statements of Inspector Clare Monahan; PC Adam Fletcher; PC Joshua Weekes and Inspector Adam Abdul-Hamid. The Officer gave evidence on his own behalf and also relied upon four character references.

The Panel gave due consideration to the Standards of Professional Behaviour as set out in the Police (Conduct) Regulations 2020 and the relevant Home Office Guidance. In addition, the Panel reminded itself the overriding concern is fairness to the Officer and the AA. The Panel also reminded itself that the purpose of professional disciplinary proceedings is not, primarily punishment, but to protect the public and to maintain the high standards and good reputation of the Police Service.

The Panel finds on the balance of probabilities the following facts in respect of the three allegations

Allegation 1

The Panel finds that Officer A did experience a brief period of pressure on her bottom while stood in the Pong bar on the evening of 20 January 2020. However, the Panel finds that Officer’s A account of being touched by the Officer Miah is not corroborated by any other officer who was present in the bar that evening and was not supported by any formal complaint being made by Officer A soon after the event occurred.

Further, the Panel finds the officers who gave evidence, were unable to satisfy the Panel as to when this incident is said to have occurred during the course of the evening, as all of their accounts differed in respect of the timing of various events during that evening.

The Panel finds the recollections of Officer A and the other officers, with the exception of Officer Miah, who were present at Pong were heavily influenced by alcohol, having been drinking in The Joker bar from around 3.30 p.m. that afternoon as part of a fellow officer's 'leaving do'.

The Panel also takes into consideration the fact that Officer A did not make any formal complaint about this incident until asked about it by a senior officer as a result of a complaint being made on her behalf in 2022, despite Officer A not having been asked for her opinion as to whether or not she wished to pursue it.

In conclusion, the Panel finds that in the absence of any contemporaneous complaint or corroborative evidence, the AA has failed to prove this allegation.

Allegation 2

The Panel accepts Officer Miah's admission that he did say "*What are you good at, other than shagging people on Team?*" and finds that he also told Officer A in that same exchange "*You're shit, you don't know what you're doing, do ya*". The Panel finds Officer A's evidence on this issue to be credible and that it was intended by Officer Miah, to be particularly hurtful and to reference an incident that occurred on the 20 January 2020 during the evening in Pong. The Panel finds these remarks were the subject of a contemporaneous complaint by Officer A to a senior officer and resulted in Officer Miah being asked to apologise.

However, the Panel finds that this singular incident of a lack of courtesy and respect do not amount to a course of conduct as is alleged by the AA in the Regulation 30 Notice and therefore, finds this allegation is not proven.

Allegation three

The Panel accepts Officer B's evidence as to the conduct of Officer Miah towards her since being assigned to the same Team. The Panel found Officer's B's evidence was reliable and

unexaggerated. While her account differs in some respects from that given by Officer Miah, the Panel accepts that Officer B was told on numerous occasions by other officers, that Officer Miah was waiting for her after shift to walk with her to the Angel Underground station. Although Officer B did not seek to assert she had absolute recall of the number of times this occurred, the Panel accepts this was more than twice as asserted by Officer Miah.

In the absence of any preserved WhatsApp messages from either Officer B or Officer Miah the Panel finds that the number and content of the messages were both limited in number and open to being misconstrued by both Officer B and Officer Miah.

The Panel has considered whether Officer's Miah's action could be construed as harassment as is alleged by the AA. Although Officer B described them in her oral evidence as 'Unwanted and persistent attention,' the Panel finds that Officer B did not clearly communicate this to Officer Miah at an early stage. The Panel also finds that Officer Miah's interactions stopped when it finally became clear to him, they were not reciprocate other than on a professional level.

Therefore, the Panel finds this allegation is not proven.

Although, the 'cubicle incident' at Pong, as it has been referred to throughout the course of this Misconduct Hearing does not form part of the AA's allegation, the Panel finds it is nevertheless relevant to address it, as it has formed much of Officer Miah's defence to these allegations.

The Panel finds Officer Ellis and Officer A did enter the cubicle in the men's toilets downstairs at Pong on the evening of 20 January 2020 with the intention of engaging in some sort of sexual activity. The Panel finds that Officer Miah knew precisely who had entered this cubicle as he had been told by DC McCann who had gone upstairs in Pong to find him. The Panel finds that Officer Miah's action in climbing on and jumping from the sink to cling on to the side of the cubicle to see what was going on was voyeuristic, unnecessary and unpleasant.

The Panel also finds the decision of Officer A and Officer Ellis to enter the cubicle together on that evening was misjudged and unprofessional for two serving, albeit off-duty police officers. The Panel finds this incident was known about at an early stage by other members of the Team including senior officers, but that no action was taken in respect of Officer A or PC Ellis' conduct or against Officer Miah for any failure to report it.

The Panel is also concerned at the way in which the allegations against Officer Miah have come about, in that they did not originate from either Officer A or Officer B but were made by PC Morgan after an exchange of words he had in a public place with Officer Miah. The Panel finds PC Morgan neither consulted with, nor sought the opinion of Officer A or Officer B as to whether the complaint should be made against Officer Miah on their behalf. The Panel does not accept PC Morgan made the complaint out of a genuine concern for the welfare of Officer A and Officer B, who had in their own minds, dealt satisfactorily with their interactions with Officer Miah, but was made out of spite to cause 'trouble' and professional embarrassment for Officer Miah.

However, in doing so, PC Morgan (a male officer) caused PC Miah (also a male officer) to force two female officers in coming to give evidence to the Panel about matters which they had dealt with in their own way and preferred to keep private or in the past whilst they continued with their professional careers. Consequently, the outcome of these proceedings has been to inflict unwanted and unsought stress and anxiety on two female officers whose own views were neither consulted nor considered. Further, in light of the lack of supervision up to the date when the complaints were made by PC Morgan, the Panel is concerned about the apparent lack of supervision and support for Officer A and Officer B.

Findings on Gross Misconduct/Misconduct

Not applicable as the allegations are found not proven.

Finding on outcome, including any aggravating or mitigating factors affecting the seriousness of the failures in standards

Not applicable.

Decision on publication

No objections were made as to whether the Panel's decision should be published. Therefore, the Panel directs the decision should be published in accordance with the requirement in Regulation 43(6) since it is important that these hearings and decisions are transparent.

