

NOTICE UNDER REGULATION 63

OUTCOME OF ACCELERATED MISCONDUCT HEARING
PURSUANT TO THE POLICE (CONDUCT) REGULATIONS 2020
AS AMENDED BY THE POLICE (CONDUCT) (AMENDMENT)
REGULATIONS 2024

DEVON & CORNWALL POLICE.

(Appropriate Authority)

v.

PS 16362 ANDREW LUFF

(“the officer”)

Panel

ACO (Retired ACC) Ian Saunders – Devon & Cornwall Police (Chair)

Representatives

Counsel for the Appropriate Authority – Mr Barnabas Branston

Solicitor for the officer – Ms Lisa McArthur

References

- (i) 'The Chair' – ACO Ian Saunders
- (ii) AA – Appropriate Authority
- (iii) 'The officer' – PS Andrew Luff
- (iv) The Police (Conduct) Regulations 2020 (Amended) 2024 will be "the Regulations", or as 'Regulation' and then the Regulation number referred to.
- (v) The Statutory Guidance on Professional Standards, Performance and Integrity in Policing issued by the Home Office will be the 'H.O.G' and the relevant paragraph number an example being [H.O.G 9.10].
- (vi) The College of Policing Guidance on Outcomes in Police Misconduct Proceedings 2023 will be referenced as 'the Guidance' and on occasion together with the relevant paragraph number.
- (vii) The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025 will be the 'Amendment Regulations'.
- (viii) Pages from the hearing bundle will be referenced for example as [HB page1 or pages 1-3].

Introduction

1. This is the Regulation 63 notice of an Accelerated Police Misconduct Panel held under the Police (Conduct) Regulations 2020 (as amended) into the conduct of PS 16362 Andrew Luff (the officer).
2. The hearing was conducted in person at Devon and Cornwall Police Headquarters, Exeter on 21st July 2026.
3. Members of the public were permitted to attend, however, none did so. The officer was present throughout the hearing.

Overview of the Case and Summary of Findings

4. This report concerns an Accelerated Misconduct Hearing arising from the officer's conviction contrary to s 1 of the Children and Young Persons Act 1933. The matter proceeded under the special conditions of the Police (Conduct) Regulations 2020 following the officer's guilty plea and a sentence imposed by Bristol Magistrates' Court.

The facts in this hearing were not disputed. The officer accepted responsibility for his actions, and he admitted the alleged breaches of the Standards of Professional Behaviour relating to Discreditable Conduct and Authority, Respect and Courtesy. He also accepted that his conduct amounted to gross misconduct. The issue for determination by the Chair was therefore the appropriate disciplinary outcome.

In assessing the seriousness of the misconduct, the Chair considered culpability, harm and the aggravating and mitigating factors. Submissions were made regarding the officer's personal circumstances, family pressures, stress and possible undiagnosed autistic traits. Whilst carefully considered, the Chair found the officer's conduct to have been intentional and deliberate concluding that he was fully responsible for his actions and that his culpability was therefore high.

The Chair found that the harm caused to the child, together with the wider reputational impact of a serving police officer being convicted of such an offence, justified a finding of high harm.

Aggravating factors included the victim's vulnerability, the seriousness of the child's injuries, the criminal conviction, and the impact on public trust and confidence in policing. Mitigating factors included the officer's early admissions, acceptance of responsibility, his remorse and insight, his previous good service and the fact that this was an isolated incident. Whilst given appropriate weight, these factors did not reduce the overall assessed level of seriousness of the misconduct which remained high.

Having found gross misconduct proven, the Chair considered the Amended Regulations which create a presumption of dismissal unless exceptional circumstances exist. Having considered all the evidence, the submissions presented by both parties, the Regulations and the relevant Guidance, the Chair concluded that no exceptional circumstances were present to justify departing from that outcome. The appropriate sanction was therefore dismissal without notice.

Representation

5. The AA was represented by Counsel, Mr Barnabas Branston.
6. The officer was represented by his Solicitor, Ms Lisa Mcarthur.

Papers considered

7. During this hearing and the Chair's subsequent deliberations, he was provided with, and carefully considered the following papers:
 - (i) Hearing bundle (HB pages 1-53).
 - (ii) AA's opening note.
 - (iii) Defence Counsel's written submissions.
 - (iv) Character references and commendations for the officer.

- (v) The officer's own written submission for the Chair.
- (vi) The officer's record of service.

The Allegations/ Alleged Breaches

8. The allegation made against the officer was recorded on the Regulation 51 notice [HB page 3].
9. To assist readers of this Regulation 63 notice, the allegation against the officer is provided in full below:

"It is alleged that your behaviour has fallen below the Standards of Professional Behaviour in that:

- (i) *On 25 November 2025, a primary school attended by your child received an anonymous safeguarding call regarding your son.*
- (ii) *It was alleged that you had physically assaulted your child and there were photographs depicting the mark allegedly left on the child.*
- (iii) *On interview of the child, the child disclosed that you had physically assaulted him.*
- (iv) *On 25 November 2025, you were arrested for assault, ill-treating, neglecting or abandoning a child so as to cause unnecessary suffering or injury.*
- (v) *On 26 November 2025, you were released on conditional Police bail.*
- (vi) *One of the conditions was to not contact either directly or indirectly your child unless approved by Social Services.*
- (vii) *On 13 March 2026 you appeared before Bristol Magistrates Court where you pleaded guilty to the following offence:*

Wilfully assaulting, ill-treating, neglecting, abandoning or exposing a child in a manner likely to cause unnecessary suffering or injury to health, contrary to the Children and Young Persons Act 1933.

- (viii) *The Court imposed a bail condition to not contact, directly or indirectly the child other than as directed by the Family Court or Social services, or for the sole purpose of arranging child maintenance via bank transfer.*
- (ix) *On 28th April 2026, you were given the following sentence:*
 - (a) *18 months community order:*
 - (b) *9 months primary mental health rehab*
 - (c) *10 rehabilitation activity days*
 - (d) *2-year restraining order: and*
 - (e) *Ordered to pay £199 in costs*

- (x) *It appears that your conduct has fallen below the standards of professional behaviour namely Discreditable Conduct and Authority, Respect and Courtesy.*
- (xi) *It is considered that this conduct amounts to Gross Misconduct”.*

10. On 13th May 2026, Deputy Chief Constable Jim Colwell determined that the allegation against the officer satisfied the special conditions as set out by Regulation 49 (2) of the Police (Conduct) Regulations 2020. He further authorised that this allegation be considered at an accelerated misconduct hearing.

Issues in Dispute

11. The officer submitted his Regulation 54 response to the allegation he faced [HB page 49].

12. Within this response, the officer provided the Chair with the following statement of introduction to his case:

“Sir, the Officer appears before this Panel having taken full responsibility for his actions. There is no challenge to the facts, no attempt to minimise the seriousness of the offence, and no effort to shift responsibility.

He fully complied with the investigation and entered an early guilty plea to the criminal offence and has accepted the sanction imposed by the court. He accepts that his conduct amounts to breaches of the Standards of Professional Behaviour, namely:

- *Discreditable Conduct*
- *Authority, Respect and Courtesy*

The issue for this Panel is purely what sanction is fair, proportionate, and necessary in all the circumstances”.

13. Counsel for the AA provided an opening note in which he submitted that there is an expectation that the approach set out in the Guidance will be followed in these proceedings.

14. He submitted that case law firmly suggests that the structured approach set out in the Guidance is *“very much to be preferred to the more summary approach*

indicated in the officer's Regulation 54 response". Counsel stated that the issue for the Chair was "evidently not "purely what sanction is fair, proportionate, and necessary in all the circumstances".

15. The Chair accepted Counsel for the AA's submission on this point.

The Panel's Approach

16. The Chair approached this task by:

- i. Firstly, deciding the facts, (**Factual Determination**);
- ii. Secondly, determining on the facts found, if any professional standards had been breached, (**Breaches of Professional Standards**), and if so;
- iii. Thirdly, deciding at what level, the panel assessed the seriousness of the breaches, (**Level of Breach**).
- iv. Lastly and following consideration of the Amended Regulations, deciding the outcome for the Officer, (**Decision on Outcome**).

Purpose of Misconduct Proceedings

17. Counsel for the AA reminded the Chair of the threefold purpose of the police misconduct regime as detailed at paragraph 2.3 of the Guidance;

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

Burden and Standard of Proof

18. The Chair was mindful that:

- (i) The burden of proof was upon the AA and,
- (ii) The standard of proof, which must be applied in this hearing was that as required in civil cases, namely upon the balance of probabilities.

Factual Determination

19. The Chair approached the first stage of his considerations by assessing the facts presented by the AA.

20. The Chair noted the officer's submission within his Regulation 54 notice that he placed no challenge against the facts presented in these proceedings. This position was confirmed by his representation during the hearing.

21. On that basis, the Chair determined that the facts alleged by the AA in these proceedings were found proven.

Breaches of Professional Standards

22. In his Regulation 54 response, the officer stated that he accepted that his conduct amounted to breaches of the Standards of Professional Behaviour, namely:

- (i) *Discreditable Conduct*
- (ii) *Authority, Respect and Courtesy*

23. On that basis, the Chair determined that the officer's conduct was in breach of those Standards of Professional Behaviour as alleged by the AA.

Level of Breach

24. In determining the level of breach, the Chair was mindful of his obligations as described in the Regulation 61(15). This states that he should review the facts of this case and decide whether the officer's conduct amounted to gross misconduct.

25. The Chair was further assisted by Regulation 61(16) which states:

“The person conducting or chairing the accelerated misconduct hearing must not find that the conduct of the officer concerned amounts to gross misconduct unless:

(a) they are satisfied on the balance of probabilities that this is the case, or

(b) the officer admits this is the case”

26. At the beginning of hearing and in accordance with Regulation 61(5), the Chair provided the officer with an opportunity to say whether or not his conduct amounted to gross misconduct. In response, Counsel for the officer confirmed that his conduct was gross misconduct.

27. On that basis, the Chair determined the level of seriousness of the officer's breach of the Standards of Professional Behaviour to be at the level of gross misconduct.

Decision on Outcome

28. Having determined that the officer's conduct amounted to gross misconduct, the Chair's task was then to impose disciplinary action as set out at Regulation 62(1) and modified by Regulation 17 of the Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025.

29. To assist the reader, that Regulation states:

“Where the person or persons conducting the accelerated misconduct hearing find that the conduct of the officer concerned amounts to gross misconduct, they must impose disciplinary action, which, subject to the provisions of this regulation, must be—

- (a) dismissal without notice, or*
- (b) if the person or persons conducting the accelerated misconduct hearing are satisfied that there are exceptional circumstances which justify it –*
 - (i) a final written warning, or*
 - (ii) reduction in rank”.*

30. It was the AA’s submission that there were no such exceptional circumstances which would have justified a final written warning or reduction in rank for the officer relating to his misconduct in this case.

31. In his consideration of a sanction, the Chair was mindful of paragraph 4.2 of the Guidance which states:

“As Mr Justice Popplewell explained, there are three stages to determining the appropriate sanction:

- assess the seriousness of the misconduct*
- keep in mind the purpose of imposing sanctions*
- choose the sanction that most appropriately fulfils that purpose for the seriousness of the conduct in question”*

32. To assist the Chair in his assessment of seriousness for the purposes of his determination of the most appropriate sanction, he next considered paragraph 4.3 of the Guidance which states:

“Assess the seriousness of the proven conduct by reference to:

- The officer’s culpability for the misconduct*
- the harm caused by the misconduct*
- the existence of any aggravating factors*
- the existence of any mitigating factors”*

33. The Chair received submissions from both parties on these four elements of seriousness as follows:

Culpability

34. The AA submitted that the officer was entirely blameworthy for his actions in assaulting his child and for his subsequent criminal conviction. In their submission, the AA stated that such culpability should be considered by the Chair as especially serious when considered against paragraph 4.14 of the Guidance.

35. To assist his determination of culpability and in accordance with the Guidance, the Chair noted paragraph 4.17 of that Guidance which states that:

“It is unacceptable for police officers, who are responsible for enforcing the law, to break the law themselves”

36. In his further consideration of the officer’s culpability the Chair also noted paragraphs 4.20 and 4.21 of the guidance which states that:

4.20: Offences of ... violent crime are particularly serious and likely to terminate an officer’s career. Such offending involves a fundamental breach of the public’s trust in police officers and inevitably brings the profession into disrepute.

4.21: However, any criminal conviction will be serious and will be likely to have an adverse impact on public confidence in policing. Depending upon the type of offence, an officer’s conviction or caution may be disclosed to the prosecution and defence during the course of a criminal trial, with the potential for undermining the investigation and prosecution.

37. In her detailed submission to the Chair, the officer’s representative stated that at the time of the assault, the officer was extremely stressed due to his juggling work together with family and financial pressures. She stated that the officer’s mother was also very unwell at the time having been diagnosed with a brain tumour 18 months previously and that she had recently gone through extensive surgery. She stated that the officer accepted that he felt completely overwhelmed at the time of the incident but that these factors reduced his culpability for the misconduct.

38. Miss McArthur further submitted that the officer now realises that all of these issues were exacerbated by traits that he now accepted were likely to be autistic

traits in himself. He stated that to date, these traits have never been formally diagnosed but that he was now in the process of arranging an assessment and is on a waiting list.

39. Miss McArthur stated that at the time of the incident on 11th November 2025, the officer was struggling with all these issues together with his facing an emotional situation when he returned from work. She described how the officer's five-year-old son, was showing challenging behaviour at the time and was constantly pushing boundaries. Counsel stated that the officer was expected to be the disciplinarian in the household when he got home from work.
40. Miss McArthur submitted that when the officer entered his home on the date of the incident, he found his eldest son (the victim of the assault) fighting with his little brother and at some points he was hitting him on the head. Counsel stated that the officer attempted to control his eldest son to no avail and as a last resort he slapped his son on the bottom with his open hand.
41. Miss McArthur submitted that given these circumstances, the officer's misconduct cannot be deemed as planned. She stated that the officer had no intention to cause harm to his son and that he was now remorseful and regretful of his misconduct.
42. The Chair was provided with a number of photographs of injuries to the officer's child which the AA say were caused by his action on 11th November 2025 (HB pages 22-26). The Chair was also provided with a medical report from a paediatric doctor who stated that in their professional opinion, the images of the injuries to the child were consistent with a slap or smack that was very forceful (HB page 30). The doctor does however state that they were unable to say whether the injuries shown on these photographs were related to the incident when the officer assaulted his son.
43. Having assessed all the evidence within the hearing bundle, the Chair finds it more likely than not that the injuries shown on the photographs were those caused by the officer to his son on 11th November 2025. The Chair noted the extent of the injuries to the child as shown on those photographs. He finds that these injuries were not

consistent with the single 'slap' that Counsel for the officer described as having been given to the child for the purposes of 'excessive lawful chastisement'.

44. The Chair noted the submission that the officer believed he was likely to be autistic and that this was advanced as a possible explanation for his actions despite there being no formal diagnosis. No medical or expert evidence was provided to assist the Chair in determining whether this had any bearing on the officer's culpability. Accordingly, the Chair rejected the submission that it had influenced the officer's state of mind, or his intent on the date of the incident when he struck his child.

45. Whilst the Chair did not find that the officer had planned to cause the extent of harm that he did, he did not find any cause to deviate from the AA's submission that the officer was solely responsible for his own actions and his subsequent criminal conviction. The chair found that the officer's misconduct was intentional and deliberate.

46. Having carefully considered submission from both parties, the Chair determined that the officer's culpability for his misconduct was high.

Harm

47. Counsel for the AA submitted that the Guidance makes clear that harm engaged in these proceedings included both the physical injury to the child but also the reputational harm to the force and to the police service arising from the officer's misconduct.

48. The Chair noted paragraph 4.66 of the Guidance which states that:

"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".

49. The Chair noted paragraph 4.74 of the Guidance which states that:

“Where gross misconduct has been found and the behaviour has caused – or could have caused – serious harm to individuals, the community and/or public confidence in the police service, dismissal is likely to follow. A factor of the greatest importance is the impact of the misconduct on the standing and reputation of the profession as a whole. For example, violence against women and girls perpetrated by a police officer, whether on-duty or off-duty, will always harm public confidence in policing, since this is inimical to the values of modern policing and the Standards of Professional Behaviour. [emphasis added]”

50. Counsel for the AA submitted that the Chair should also consider both the physical and psychological harm caused to the victim who was a vulnerable young child at the time of the incident. Counsel stated that the harm to the victim was significant, due not only to the injuries that he had sustained during the assault, but also because the officer had not been permitted to see his child since the incident on 11th November 2025.

51. In mitigation, solicitor for the officer submitted that although the officer’s actions caused harm to his son, the assault was brief and resulted from a momentary lapse of judgment. As such, Miss McArthur stated that the incident was not sufficiently serious to undermine public confidence in the police service or cause harm to the wider community. Miss McArthur maintained that the harm arising from the officer’s actions was confined to his own family and did not extend to the wider community or public confidence in policing.

52. Whilst the Chair noted this submission, he was not persuaded by the argument that the circumstances of the officer’s actions were of insufficient seriousness to undermine public confidence in the police service and the wider community. Having considered the photographs of the child’s injuries, and the fact that they were committed by a serving police officer who was subsequently criminally convicted, the Chair found that public confidence in the police service would be negatively affected if they were aware of those circumstances.

53. Miss McArthur also submitted that the officer's misconduct should not be considered by the Chair as engaging any local or national concern about the behaviour in question for his assessment of harm. Miss McArthur stated that the officer's misconduct would not attract national media interest notwithstanding the criminal conviction imposed. The Chair was asked to consider that the 'the low-level nature' of the officer's misconduct when considered against other examples of police misconduct reported nationally should reduce his assessment of harm.
54. The Chair was not persuaded by this submission. Whilst the Chair was not aware of any current specific local or national issues of relevance and the requirement for him not to engage in speculation, he determined that it was more likely than not, that local, and potentially national concerns, would be raised if the public became aware of the circumstances of this case.
55. The Chair was also directed by Miss McArthur to consider H.O.G 2.15. It was submitted that the officer accepted that discredit can be brought on the police by an act itself, or because public confidence in the police is undermined or is perceived to be undermined. However, Counsel submitted that in general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, and whether the misconduct occurred on or off duty.
56. Miss McArthur also directed the Chair to consider H.O.G 2.17 in her submission that the officer was off duty when he assaulted his son. Miss McArthur submitted that whilst Police officers have some restrictions on their private life, these restrictions must be balanced against their right to privacy in common law, and the right to a private life, as set out in Article 8 of the Human Rights Act 1998. Miss McArthur submitted that in considering whether the officer had acted in a way which had fallen below the standards alleged while off-duty, due regard should be given by the Chair to that balance, and that any sanction should be proportionate considering all of the circumstances.
57. Having carefully considered this submission, the Chair accepted that the officer's action occurred whilst he was off duty and in the privacy of his own home. Accordingly, the Chair found that Article 8 was engaged and that it fell to be

considered in his determination of both the seriousness of the misconduct and the sanction that should be applied.

58. However, the Chair found that an interference with the officer's Article 8 rights was justified in the circumstances of this case. He determined that a balance had to be struck between those rights and the need to protect the rights and freedoms of others. The Chair further considered that maintaining public trust and confidence in policing was a legitimate and important consideration in that assessment.

59. Having considered the requirement to balance these competing rights, the Chair had found that an interference with the officer's Article 8 rights was justified based on the facts of this case on the grounds of necessity and proportionality. The Chair found that the officer had been criminally convicted for an offence contrary to s 1 CYPA 1933 and his son had sustained obvious injuries and likely distress. Whilst the misconduct occurred in a private setting and the officer was off duty, it constituted criminal behaviour against a vulnerable victim. The Chair found that the fact that the misconduct took place in private and while off duty, should not insulate the officer from the appropriate and proportionate scrutiny for the purposes of the police misconduct regime.

60. Having carefully balanced the officer's Article 8 rights against the public interest in this case, the Chair was satisfied that an interference in those rights was appropriate, proportionate and necessary to achieve the aims of the police misconduct regime.

61. The Chair therefore rejected the officer's submission on this point and found that the interference with his Article 8 rights would not give cause to find that the imposition of a disciplinary sanction would be unlawful or disproportionate. The Chair therefore found that his rejection of this submission meant that he should not regard it as an 'exceptional circumstance' for the purposes of his determining a sanction for the officer.

62. Miss McArthur submitted to the Chair that the officer had been initially charged with a criminal offence of assault by beating. She submitted that when the officer saw, for the first time, the photographs of the injuries sustained by his son [HB pages

22-26] he formed a view that they presented as having been caused by “more than reasonable chastisement”. Miss McArthur further submitted that during the criminal hearing she had asked the Judge, District Judge Matthews, to sentence the officer on the basis that the offence was a single incident of “excessive reasonable chastisement”.

63. Miss McArthur informed the Chair that the District Judge had agreed to this application. Miss McArthur also submitted to the Chair that the charge against the officer had been amended prior to the hearing from that of an assault to one of an offence contrary to s 1 CYPA 1933.

64. Whilst Miss McArthur did not present these circumstances as a specific ‘exceptional circumstance’ for his consideration, in demonstration of fairness to the officer, the Chair nevertheless considered this submission on the basis that it was.

65. Whilst the Chair noted Miss McArthur’s submission that the charged criminal offence against the officer was amended from one of assault to one of an offence contrary to s 1 CYPA 1933, he did not find that this could be viewed as an exceptional circumstance for the purposes of his assessment of seriousness or determination of sanction. The Chair did however note the submission that the District Judge agreed to sentence the officer on the basis that the admitted criminal misconduct was a single episode of “excessive reasonable chastisement”.

66. The Chair considered this judicial decision in his total assessment of the harm arising from the officer’s misconduct for the purposes of his assessment of seriousness. However, having made this determination, the Chair did not find that this submission could be regarded as an exceptional circumstance for the purposes of his determination of a sanction.

67. Whilst the Chair noted that the District Judge had determined that the criminal conduct was a single episode of “excessive reasonable chastisement”, he did not find that this was of sufficient weight to cause him to deviate from his earlier assessment of seriousness arising from a police officer being convicted of a criminal offence (paragraph 4.17 of the Guidance).

68. Having carefully considered the submissions from both parties, the Chair found that significant harm had been caused to the officer's son because of an assault despite the criminal charge placed upon him being amended. The Chair also found that harm in this context was not limited to harm against the officer's son. He found that this harm also extended to reputational harm that may befall the constabulary or the wider police service because of the actions of the officer.

69. The Chair found that that reputational harm to policing serves to undermine public confidence in that service. The Chair determined that should the actions of the officer become disclosed to the public, it would undoubtedly be the case that reputational harm would be caused to the police service.

70. Having carefully considered submission from both parties, the Chair determined that the harm caused by the officer through his misconduct was high.

Aggravating Factors

71. Counsel for the AA submitted that the following aggravating factors were engaged for consideration by the Chair:

- i. The officer's misconduct was a deliberate act.
- ii. This misconduct had (or could be safely assumed to have had) serious physical or psychological impact on the victim.
- iii. The victim (a child) was vulnerable.
- iv. The officer received a criminal conviction for the assault upon his son.
- v. Public trust in the police service would be breached by the officer's misconduct.

72. In response, Miss McArthur submitted that it was accepted by the officer that his son had been a vulnerable victim.

73. Miss McArthur did however submit that there had been no planning involved in the assault, and that the injuries sustained by the officer's son had not been caused deliberately.

74. Furthermore, Miss McArthur also submitted that the assault upon his child was “not a regular, repeated or sustained act or behaviour over a period of time” and that “This incident lasts a matter of seconds”.

75. In respect of paragraphs 73 and 74 above, the Chair noted that the same submissions were made by Miss McArthur in her offering of points of mitigation. Mindful of the requirement not to ‘double count’ submissions, the Chair deals instead with those matters below in his consideration of mitigating factors.

76. Having heard submissions from both parties on aggravating factors, the Chair considered paragraph 4.76 of the Guidance to assist his determination. Having done so he found that the following aggravating factors were engaged in this case:

- (i) Gratuitous violence caused by the officer upon his son.
- (ii) Serious physical and psychological harm caused to his son.
- (iii) The vulnerability of his son at the time of the criminal assault.
- (iv) The criminal conviction arising from the assault.
- (v) That Public trust in the police service would be breached by the officer’s misconduct.

Mitigating Factors

77. To assist in his consideration of mitigating factors arising in this case the Chair was mindful of paragraph 4.79 of the guidance which states:

“Mitigating factors are those tending to reduce the seriousness of the misconduct. Some factors may indicate that an officer’s culpability is lower, or that the harm caused by the misconduct is less serious than it might otherwise have been”.

78. The Chair was also mindful of paragraph 4.81 of the Guidance which provides a non-exhaustive list of factors that may indicate a lower level of culpability or harm.

79. Counsel for the AA submitted that the following mitigating factors were engaged in this case:

- (i) The officer's misconduct was confined to a single episode of brief duration and that it was not part of a pattern of behaviour.
- (ii) The misconduct was caused by the stress of the circumstances in which the officer found himself which may have affected his ability to cope.
- (iii) The officer made open and early admissions.
- (iv) That the Chair may find that the officer felt genuine remorse, insight and an acceptance of responsibility for his actions.

80. The Chair accepted this submission except for the assertion that the officer's misconduct was caused by the stress of the circumstances and any resulting impact on his ability to cope. As explained elsewhere in this Regulation 63 Notice, no medical evidence was provided to support the submission that the officer's undiagnosed autism may have contributed to these events.

81. Medical considerations aside, the Chair was not persuaded to attach any mitigating weight to the AA's submission that the officer was suffering from stress at the time he assaulted his child. The only evidence advanced in support of this submission was the officer's own account. The Chair found that this was unsupported by any corroborative evidence that would have assisted him in making such a finding, even when applying the civil standard of proof required in these proceedings.

82. Miss McArthur submitted that the following factors fell to be considered by the Chair as mitigation in his determination of culpability:

- (i) The officer's misconduct was over a brief duration.
- (ii) The officer felt deep regret for his action.
- (iii) The officer had made open admissions at an early stage.
- (iv) The officer had taken responsibility for his actions. He had reflected seriously on his behaviour, and he was deeply sorry and remorseful for his actions.
- (v) He wished to apologise to his wife, children and family for the stress he has caused them as well as to the force.
- (vi) The action of the officer was completely out of character for him.

83. In demonstration of fairness to the officer, and for the avoidance of double counting, the Chair also considered the following submission points as mitigating factors which Miss McArthur had originally advanced in her submission against aggravating factors:

- (i) That there had been no planning involved in the assault and that the injuries sustained by the officer's son had not been caused deliberately.
- (ii) That the assault upon the officer's child was "not a regular, repeated or sustained act or behaviour over a period of time" and that "This incident lasts a matter of seconds".

84. To assist the Chair, Miss McArthur also provided a written note containing a number of submission points that have already been addressed within this Regulation 63 notice. In addition to those points already dealt with in this notice, Miss McArthur advanced the following additional points of mitigation for consideration by the Chair:

- (i) The officer was a 46-year-old man who had 'lost everything'.
- (ii) He was an officer with over 22 years of unblemished service with Devon and Cornwall Police.
- (iii) He qualified as a police sergeant in 2007 but is a very experienced officer with a wide variety of roles and specialisms.
- (iv) He had lost family contact with his young sons since this incident.
- (v) There had been significant financial impact on him and his family due to this case.
- (vi) His parents and sister have also lost contact with their grandchildren.
- (vii) The officer was currently living in a room in his sister house in Axminster.
- (viii) Family proceedings for divorce were now underway.
- (ix) He had apologised to his child at the time of this incident, put him to bed, and comforted him.
- (x) At the time of the assault, he was under significant financial pressure and working overtime to support his family.

- (xi) He was also dealing with ongoing emotional stress due to my mother's deteriorating health following an operation to remove a brain tumour 18 months prior.
- (xii) There were pressures within the home, including the officer being relied upon to manage difficult behaviour from the children.
- (xiii) This was a unique combination of pressures that came together at one time and were very unlikely to be repeated.
- (xiv) The officer stated that he had never previously lost his temper with the children in this way, and that he very rarely lost his temper at all.
- (xv) If his employment is also removed, this will affect his ability to financially support my family, which will have an adverse effect on my children.
- (xvi) The officer's misconduct has had a serious effect on his children who have now not seen him for some time.
- (xvii) The officer has attended his GP and been diagnosed with anxiety and depression and is now proscribed medication for this condition.
- (xviii) The officer had sought counselling via the police and has now received six sessions of stress related counselling which involves anger management, and how to deal with stresses of life when he gets overwhelmed which was how he felt when he assaulted his son.
- (xix) The officer had tried to enrol on parenting course through the local authority, but it was cancelled due to sickness and that he is now intending to re-book.
- (xx) He had completed an online course called the "Solihull Approach" which was designed to improve his understanding of a child "from toddler to teenager" which was delivered over 11 modules.

85. Following careful consideration of submissions from both parties, the Chair accepted all the mitigating factors described at paragraphs 79, 82 and 83 above (with the exception of paragraph 79(ii) for the reasons provided) to assist him in his determination of seriousness.

86. The Chair had also considered the additional mitigating factors provided by Counsel for the officer as shown at paragraph 84 above. He did not find that any

of these were engaged in his assessment of the seriousness of the officer's misconduct or for his determination of a sanction.

87. Having carefully considered the submissions advanced by Miss McArthur, the Chair did not find that any were of sufficient weight to alter his assessment of either the officer's culpability or the harm caused by his misconduct. Further, the Chair did not find that any of the mitigating factors advanced on the officer's behalf amounted to an exceptional circumstance capable of justifying the imposition of a final written warning or a reduction in rank.

Determination of seriousness

88. Having assessed both the culpability and harm arising from the officer's misconduct as high, the Chair was then required to consider if either the aggravating or mitigating factors engaged in this case would cause him to either increase or reduce his assessed level of seriousness of the officer's misconduct.

89. Given that the Chair had already determined that the harm and culpability of the officer was high, the aggravating factors found to be made out in this case did not give him cause to deviate from this assessment.

90. The Chair noted the agreement between both parties in respect of a number of the mitigating factors engaged in this case. However, he did not find that any were of sufficient gravity to cause him to reduce downwards his assessment of the seriousness of the officer's misconduct from his starting point of high.

91. On that basis, the Chair concluded that the seriousness of the officer's proven misconduct was high for the purposes of his imposition of an appropriate sanction.

Determination of outcome

92. Having determined the seriousness of the officer's misconduct, the Chair reminded himself again of the now amended Regulation 61(1) of the Police Conduct Regulations 2020. This Regulation was engaged for this hearing as it came into effect of 28th May 2025 predating the allegation subject of this hearing.

93. The Amendment Regulations state that where the Chair finds gross misconduct proven, the outcome will be dismissal without notice unless he was satisfied that there were exceptional circumstances which justify a final written warning or a reduction in rank.

94. The Chair was advised by Counsel for the AA that there was no definition provided in the Regulations of what could be meant by 'exceptional circumstances'. He submitted that a 'dictionary definition' approach should be adopted in the Chair's application of this term.

95. The Chair once again reminded himself of the purposes of police misconduct proceedings as defined at paragraph 2.3 of the Guidance which are repeated below:

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

96. The Chair having noted paragraph 3.24 of the Guidance stating that he must have regard to the officer's record of police service when considering the outcome was provided with his service record. This service record was carefully considered during his further deliberations.

97. The Chair was also provided with eleven references for the officer which he considered as personal mitigation when determining the appropriate sanction. Many of the references described the officer as a reliable, trustworthy and loyal colleague. He was characterised by a number of references as being a calm,

pragmatic and polite colleague with a measured temperament. The references also highlighted his ability to think rationally under pressure and to conduct himself with decency and respect towards others.

98. Having considered those character references, the Chair then directed himself to the AA's opening note where the case of Salter was referenced. In this case Lord Justice Kay stated that *'the weight of personal mitigation will necessarily be limited, particularly where serious misconduct has been proven'*. In that same case, Lord Kay stated that *'if the misconduct is so serious that nothing less than dismissal would be sufficient to maintain public confidence, personal mitigation will not justify a lesser sanction'*.

99. Accordingly, and following the Chair's assessment of the high level of seriousness of the officer's misconduct, he found that despite the positive nature of the personal mitigation presented for the officer, it carried limited weight for the purposes of his determination of a sanction.

100. During closing submissions from his representative, the officer also provided his own written submission for consideration by the Chair. The Chair took careful note of this submission but failed to find that it contained any exceptional circumstances that gave him grounds to deviate from the starting presumption arising from the Amended Regulations, that the officer should be dismissed without notice.

101. Having assessed the totality of the proven breaches, his assessment of the seriousness of those breaches, the application of the Amendment Regulations, the Officers service record and the purpose of the police misconduct regime, the Chair determined that he was not satisfied that there were the exceptional circumstances in place to justify his departure from the sanction of dismissal.

102. Therefore, the Chair found as the outcome that the officer **would be dismissed without notice.**

ACO Ian Saunders

Chair of misconduct hearings

24th July 2026