

NOTICE UNDER REGULATION 43

OUTCOME OF MISCONDUCT HEARING

IN THE MATTER OF A POLICE MISCONDUCT HEARING

PURSUANT TO THE POLICE (CONDUCT) REGULATIONS 2020

DEVON & CORNWALL POLICE.

(Appropriate Authority)

v.

PC 17039 Robert Deveau

("the Officer")

Panel

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

Mr. Tim Smith (Independent Panel Member)

Ms. Claire Martin (Independent Panel Member)

Mr. James Rickard (Legally Qualified Person)

Representatives

Counsel for the Appropriate Authority – Mr. Alan Jenkins

Counsel for the officer – Mr. Kelly Brocklehurst

References

- (i) AA – Appropriate Authority
- (ii) ‘The officer’ – PC Deveau.
- (iii) LQP - Legally Qualified Person
- (iv) The Police (Conduct) Regulations 2020 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’

Introduction

1. This is the record of a Police Misconduct Panel held under the Police (Conduct) Regulations 2020 (as amended) into the conduct of PC 17039 Robert Deveau (the Officer).
2. The hearing was conducted in person at Reed Hall, Exeter on 8th - 9th June 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 misconduct hearing concerned allegations that on 29th July 2025, the Officer intentionally disposed of his mobile telephone prior to his arrest in order to prevent or delay a criminal investigation relating to his former partner. The case centred not on the underlying criminal allegations themselves, but specifically on the Officer's conduct in placing his mobile phone in woodland before returning to his parents' home, where he was subsequently arrested, and whether that conduct breached the Standards of Professional Behaviour.
5. The AA alleged that the Officer's actions had both the effect and the intention of preventing or delaying a prompt investigation. It was further contended that such conduct amounted to breaches of Honesty and Integrity, Duties and Responsibilities, and Discreditable Conduct, and was sufficiently serious to constitute gross misconduct.
6. The Officer denied the allegations. His position was that he had not acted dishonestly, nor had he sought to obstruct any investigation. He maintained that he had not lied to officers and that no criminal charges were ultimately brought against him. He further argued that there was no evidence that any investigation had in fact been hindered, and that his mobile phone was later determined to contain no material relevant to the investigation. The Officer accepted that he disposed of the

phone but asserted that this was an impulsive act arising from emotional distress, rather than a calculated attempt to impede police enquiries.

7. The panel heard that the Officer was involved in an acrimonious separation from his former partner with whom he shares a young child. On the morning of 29th July 2025, the Officer had an argument with his former partner during which she indicated she would report him to police. Later that day, officers attended the home of the Officer's parents, where he was then living, to arrest him. The Officer was not present so was contacted by telephone by officers who informed him that he was to be arrested and taken to Exeter custody unit, The Officer agreed to return to his parents' house where he knew that he would be arrested.
8. Following that call, and before returning home, the Officer stopped in a wooded area. It was during this period that he disposed of his mobile phone. Upon his arrival at his parents' address, he told arresting officers that he did not have the phone despite having been spoken to on it shortly beforehand. The device was not located during initial searches.
9. While in custody, the Officer initially provided "no comment" responses regarding the phone's whereabouts during his criminal suspect interview. However, later that evening following legal consultation, he agreed to assist officers in recovering the device. After his release from custody, the Officer subsequently directed investigators to the location where it had been placed and handed it over. He also provided the PIN to facilitate its examination.
10. Evidence from officers indicated that the Officer appeared to know the precise location of the phone walking directly to it in a wooded area and retrieving it from behind a tree. The AA relied in part on this to suggest deliberate concealment. However, the Officer's account was that he had thrown the phone impulsively during a moment of distress and later returned to the approximate area to retrieve it.
11. The panel carefully considered the Officer's evidence regarding his personal circumstances. These included the breakdown of his relationship, concerns about access to his child, the immediate argument with his former partner, and the

serious illness of his mother, alongside the prospect of being arrested in front of his family. The Officer described feeling distressed, angry, and not in a clear frame of mind, and stated that his actions were impulsive and not thought through.

12. Importantly, the panel also considered the legal context. At the time the Officer disposed of his phone, he had already been informed that he was to be arrested. The panel found that from that point onward, he was operating as a suspect in a criminal investigation and was entitled to the protections afforded by the Police and Criminal Evidence Act 1984 (PACE), including the right to silence and the common law privilege against self-incrimination. Whilst the panel recognised the safeguards provided by PACE and the common law privilege against self-incrimination, they did not find that they provide a criminal suspect with unconditional immunity from scrutiny of his conduct.
13. Critically, the panel concluded that aside from the PACE and common law safeguards afforded to the Officer in their determination of fact, they found that there was insufficient evidence presented by the AA to prove that his action had the effect of delaying or preventing a prompt investigation, or that it was intended to do so.
14. In the absence of such evidence, the panel declined to speculate and infer such intent solely from the timing or nature of his actions, particularly given his status as a suspect and the protections that applied.
15. The panel also noted the absence of evidence presented by the AA regarding any actual investigative impact of the Officer's alleged actions. The mobile phone was not forensically examined, and no evidence was presented to show that it may have contained relevant material, that any evidential opportunities were lost, or that a prompt investigation was delayed due to its not being produced.
16. In the absence of such evidence, the panel determined that any conclusions about the impact of the Officer's actions would be speculative. The panel declined to engage in such speculation in its determination of fact in this case.

17. The panel also determined that the Officer's failure to disclose the location of the phone at the time of arrest, and his initial "no comment" responses in interview, could not properly be relied upon to draw adverse inferences in the context of misconduct proceedings, given the legal protections available to him as a suspect.
18. The panel determined that the officer could and should have behaved differently and said things in a different way but that was not an issue for the panel in the circumstances that the officer found himself in at that time. By the time the misconduct investigation was notified to him, and subsequently took place, the Officer had been compliant with the request even if it was to provide a phone that was not subsequently examined and where no substantive criminal charge was laid against him.
19. Having considered all of the evidence, the panel concluded that the AA had not discharged the burden of proof. They found that the AA had not established, on the balance of probabilities, that the Officer's actions were intended to prevent or delay an investigation, nor that they had that effect.
20. Accordingly, the allegations were found not proven. In light of this finding, no breaches of the Standards of Professional Behaviour were established.

Representation

21. Throughout the misconduct proceedings, the AA was represented by Counsel Mr. Alan Jenkins.
22. The Officer was represented by Counsel Mr. Kelly Brocklehurst.

The Allegations/ Alleged Breaches

23. The allegation below was recorded on the Reg 30 notice at page 4 of the agreed bundle. The panel were helpfully reminded of the allegation and its salient facts in the opening note of the AA.

- (i) *On 29th July 2025 officers were tasked with arresting you in relation to allegations relating to your former partner, the mother of your child. They attended the address of your parents, where you had been staying, and your father was spoken to.*
- (ii) *Your father then rang you on your mobile phone and you agreed to come to the property.*
- (iii) *You then left your mobile phone in woodland before going to your parents' address, when you were arrested.*
- (iv) *Your actions in disposing of your mobile phone prior to your arrest*
 - a) *Had the effect of preventing those investigating possible criminal offences in relation to your former partner from undertaking a prompt investigation.*
 - b) *Were intended by you to have that effect, or to delay an investigation.*
- (v) *You were interviewed under caution on 29th July 2025 and you provided a prepared statement in response to the allegations relating to your former partner.*
- (vi) *You subsequently agreed to provide your mobile phone once you had been released from custody.*
- (vii) *Your actions, as set out above, breached the Standards of Professional Behaviour of:*

*a. **Honesty and Integrity:** Police officers are honest, act with integrity and do not compromise or abuse their position.*

*b. **Duties and Responsibilities:** Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.*

*c. **Discreditable Conduct:** Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.*

- (viii) The AA further stated in the Regulation 30 notice that the matters above were individually and collectively so serious as to amount to gross misconduct and to justify dismissal.

24. Mr. Jenkins, in his opening note more clearly described the allegation as follows;

“In a sentence PC Deveau disposed of his mobile phone on the day that he learned that he was to be arrested in relation to allegations concerning his relationship with your former partner.

The issue for the panel to determine relates to PC Deveau’s state of mind when he disposed of the phone by leaving it in woodland”.

Issues in Dispute

25. The Officer did not accept the allegations made against him. He therefore submitted that it was incorrect to conclude that he lacked honesty and integrity or breached any other Standard of Professional Behaviour.

26. In support of this position, the Officer submitted that:

- (i) At no point did he lie to officers.
- (ii) No criminal charges were ever brought against him.
- (iii) One witness states that any delay in handing the phone over ‘may hinder the investigation’. The Officer submitted that there was no evidence in this case that the investigation was hindered.
- (iv) It was accepted by investigating officers that his phone did not contain anything of relevance to the investigation.

27. Further, the Officer stated that although he did not have the presence of mind to direct officers to his phone at the point of his arrest, the Officer did so very soon after when he was in a better mental state to make sensible decisions.

He stated that he had co-operated fully in the subsequent recovery of the phone and provided officers with the PIN number.

The Panel's Approach

28. The panel were to approach their 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 considering the Amendment Regulations deciding the outcome for the Officer, (**Decision on Outcome**).

Purpose of Misconduct Proceedings

29. The panel was aware of the purpose of Purpose of Misconduct Proceedings set out at paragraph 2.3 of the Guidance.

30. Counsel for the AA reminded the panel in his opening of the threefold purpose 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

31. The panel was also reminded by Counsel for the AA in his opening that,

- (i) The burden of proof was on the AA and,

- (ii) The standard of proof, which must be applied, was that required in civil cases, that is the balance of probabilities.

Factual Determinations

32. The panel approached the first stage of their considerations by assessing the facts presented by the AA, the evidence provided in the agreed bundle, the evidence provided by the witness at the hearing and the response provided to the allegations by the Officer both in the hearing bundle and in his evidence to the panel.
33. By way of background, the Officer and his former partner had a 4-year-old daughter. The Officer and his former partner were in the process of separating and it was an acrimonious process. The Officer was living with his parents in July 2025 when police came into possession of information which led to the decision to arrest him.
34. It should be noted that the Officer's arrest was for matters unconnected with the misconduct allegations to which this hearing relates. The panel were not provided with any detail regarding these matters. The agreed bundle was redacted to remove any reference to and evidence of those matters.
35. The panel were provided with two statements of evidence from Police Sergeant 17443 Thomas Cole (agreed bundle pages 24-28). PS Cole also provided live evidence to the panel during the hearing.
36. PS Cole was employed as a Response Police Sergeant for Devon and Cornwall Police on 29th July 2025. On that date he was tasked to assist in the arrest of the Officer. He was accompanied by his colleague PC 18413 Jones to assist him with this arrest. PS Cole informed the panel that due to the sensitivities of the circumstances of the arrest enquiry, he and his colleague decided to change into civilian clothing, and they wore covert body harness with body worn video (BWV) cameras. The subsequent arrest of the Officer was recorded on BWV and was provided to the panel as exhibit TC/01.

37. PS Coles stated that they arrived at the then home address of the Officer at 1741hrs. He stated that the door was opened by the Officer's father who he said was called 'Glenn'. Glenn stated that the Officer was not present as he was picking up his daughter from nursery. PC Cole informed Glenn that he needed to speak to the Officer and asked him to call him.
38. PS Cole stated that Glenn called the Officer and handed him the phone upon it being answered. PS Cole stated he could hear road noise so assumed the Officer was driving during their conversation. PS Cole told the officer that he had been 'tasked to bring him in as there had been allegations made'.
39. During his evidence to the panel, PS Cole stated that the Officer agreed to return home 'imminently' to meet him and PC Jones. PS Cole stated that the Officer sounded calm, collected and did not seem shocked by this decision. He further stated that the Officer didn't sound surprised when he explained that he needed to 'bring him in'.
40. In his oral evidence, PS Cole informed the panel that during this telephone conversation he informed the Officer that he would need his mobile phone to be produced. Counsel for the AA asked PS Cole if he had explained to the Officer why his mobile phone was required by investigating officers. PS Cole stated that he did not himself know why the item was required so had therefore not conveyed this to the Officer.
41. During cross examination, PC Cole agreed that the Officer had been quiet during the arrest enquiry and that he had not argued or resisted the arrest that was arranged.
42. Following questioning from the panel, PS Cole stated that he was briefed on the requirements for the arrest of the Officer by the 'Moonstone' team (Safeguarding unit) Detective Inspector. He stated that he was informed that the recovery of the mobile phone was an important investigative line of enquiry. PS Cole did however confirm that he had not conveyed this information to the Officer during his phone call with him.

43. PS Cole stated that he had been informed by the Moonstone team Detective Inspector about the specific nature of the allegations made against the Officer for which he was to be arrested. PS Cole stated that he decided not to pass this information to the Officer as he wanted to keep his initial discussion with him deliberately vague when he explained to him that he would be arrested.
44. PS Cole and PC Jones were then invited into the house to await the arrival of the Officer who returned at around 1745hrs with his daughter. PS Cole stated that the Officer appeared calm and collected upon his arrival to the house.
45. PS Cole described how he asked the officer where his mobile phone was and the officer replied, "I HAVEN'T GOT IT". PS Cole said to the officer "WE RANG YOU ON IT DIDN'T WE?" He replied "YEAH...BUT I HAVEN'T GOT IT".
46. PS Cole stated that PC Jones arrested the Officer at 1747hrs. He stated that the Officer was cautioned and that he was asked where his mobile phone was. The Officer said that he didn't have it with him. PS Cole searched the Officer's car, his daughter's school bag and his bedroom for the phone which was not located.
47. The officer was taken to Exeter Police Custody and remained silent until arrival when he was booked in and then taken to his cell.
48. PS Derek Von Memerty was a Custody Sergeant in Exeter Custody on 29th July 2025 and on duty when the Officer was being held in custody. PS Von Memerty provided the hearing with a statement of evidence at pages 37-38 of the agreed hearing bundle.
49. He stated that at approximately 2230hrs whilst speaking to PS Ben Balsdon, the Officer's welfare officer, he became aware that the Officer did not have his mobile phone in his possession at the time of his arrest. He stated that he was aware that there were concerns that this may hinder an investigation.
50. In response, PS Von Memerty telephoned the Officer's solicitor, Ms. Lisa McArthur and asked her for any reason why he could not ask the Officer to supply his mobile phone to the investigating officers.

51. PS Von Memerty stated that Ms. McArthur informed him that the Officer had been advised to hand his phone in at the earliest opportunity and that he could ask the Officer to do so.
52. PS Von Memerty stated that he then visited the Officer in his custody cell and explained to him that he had spoken to Ms. McArthur and that the investigating officers required him to produce his mobile phone. PS Von Memerty informed the Officer that he was not obliged to agree to this request but that handing his phone to officers immediately would be a positive step to reduce any break in the chain of continuity.
53. PS Von Memerty stated that the Officer asked how he could recover the mobile phone as it was not at his home address. PS Von Memerty explained that the investigating officers could follow him in an unmarked car to the location of the phone where he could retrieve it and hand it to the officers.
54. PS Von Memerty stated that the officer was concerned about the proximity of the investigating officers during this process. PS Von Memerty stated that he told the Officer that the accompanying officers would be close enough to observe the recovery of the mobile phone but would not be directly with him.
55. PS Von Memerty stated that following this explanation, the Officer immediately agreed to the requested recovery method for his mobile telephone.
56. The panel received written evidence from PC (now TDC) 18764 Reece Dawe at pages 29 - 35 of the agreed bundle. The panel were informed that the agreed bundle contained two duplicated statements from PC Dawe (pages 31-33 and 34-35). With agreement from Counsel for the Officer, the hearing considered the statement provided at pages 31-33. The panel also received oral evidence from PC Dawe.
57. On the 29th July 2025, PC Dawe was stationed on the East and Mid Devon Domestic Abuse Investigations Team known as 'Moonstone'. He stated that he was aware that during the Officer's arrest, he had stated that he did not have his

mobile phone on him despite the arresting officer's speaking to him on it approximately 10 minutes earlier.

58. During the subsequent criminal interview with the Officer that evening, PC Dawe asked him questions about the mobile phone which were answered with 'no comment' response. PC Dawe stated that the Officer's solicitor had stated, whilst outside of the criminal interview, that he would provide details about the phone after the conclusion of that interview.
59. PC Dawe stated that he discussed the circumstances of this case with his supervisor, PS Adam Gould and they decided to recover the mobile phone that night after the Officer had been released from custody. PC Dawe stated that he then spoke with Custody Officer PS VON MEMERTY and the Officer's welfare officer PS BALSDON about this requirement.
60. PC Dawe stated that prior to his release from custody, the Officer was reluctant to share the location of the phone. PC Dawe stated that the officer was spoken to about this whilst in his cell and that he agreed that that he would allow officers to follow him to the location of his mobile phone where he would hand it over to officers.
61. PC Dawe stated that whilst in custody, he believes that the Officer made a comment to the effect of "I DIDN'T WANT TO LOSE MY PHONE FOR MONTHS". PC Dawe believed that this comment was made in the presence of himself, PC WEST, PS VON-MEMERTY and PS BALSDON, who was PC DEVEAU's welfare officer.
62. In his witness statement, PS Balsdon stated that he was contacted by Inspector 11912 Kellie Edwards who informed him that one of his officers, PC Deveau had been arrested and was being held at Exeter custody.
63. PS Balsdon stated that investigating officers needed the Officer's mobile phone which was not in his possession at the time of his arrest. He stated that he was informed that the Officer spoke to investigating officers on his mobile phone

shortly before his arrest so they concluded that he had left his mobile phone somewhere between when he was called and when he was arrested.

64. PS Balsdon stated that he was advised that the Officer's solicitor had been spoken to about this matter and had advised that he should hand his mobile phone to officers and that the Officer had agreed to this.
65. PS Balsdon stated that he informed the Officer that he would take him home following his release from custody and that they would recover his mobile phone whilst be followed by investigating officers. PS Balsdon stated that he parked his car at Kingskerswell Road where the Officer recovered his mobile phone and handed it to investigating officers.
66. PS Balsdon stated that during the car journey to the officer's home, the officer stated, 'that he didn't know why he had 'chucked' the phone other than in anger and he was just so angry about the arrest'.
67. PC Dawe stated that the officer was driven in a car by PS Balsdon to locate the phone and that he and PC West followed behind. PC Dawe stated that he saw PS Balsdon drive his vehicle into wooded area and that he then saw the Officer walk into an area that was behind a tree. He stated that the tree that the officer walked behind was approximately 5-10 meters away from PS BALSDON's car.
68. PC Dawe stated that in his opinion, the officer would have needed to get out of his car and place the phone in the area where it was recovered from. He stated that the officer walked directly to the area where the phone was located which indicated to him that he knew where he had placed the phone rather than he had thrown it from the car. PC Dawe stated that the phone showed no signs of damage that he would have expected had it been thrown into a wooded area.
69. The Officer handed his mobile phone to PC Dawe which was seized at 0050hrs as exhibit RJD/01.

70. During his oral evidence to the hearing, Counsel for the AA assisted PC Dawe by reviewing the photographic evidence provided in the agreed bundle at pages 41-45.
71. Dealing with page 41 of the agreed bundle, PC Dawe stated that this was an image that he had prepared using Google Maps and was produced as exhibit RJD/02. He directed the panel to a white coloured rectangle on the image which he stated represented the position where he parked his car during the recovery of the mobile phone by the Officer. PC Dawe then referred to a red coloured rectangle which he stated represented the position where the Officer and PS Balsdon had parked and the small blue cross represented the approximate position where the mobile phone was recovered by the Officer.
72. PC Dawe then took the panel to page 42 of the agreed bundle which he stated was an image taken from 'Street View' and was presented as exhibit RJD/03. He stated that this was an image showing the direction that PS Balsdon's car was parked when the Officer recovered his mobile phone.
73. The panel were then directed to page 43 of the agreed bundle which PC Dawe stated was a photograph that he had taken to demonstrate the type of undergrowth from which the officer had recovered his mobile phone. PC Dawe stated that this image was not however of that specific location. This image was presented to the panel as exhibit RJD/08.
74. The panel then considered page 44 of the agreed bundle upon which a photograph of foliage was provided that he had taken to again demonstrate the nature of the undergrowth from which the officer had recovered his mobile phone. This image was produced as exhibit RJD/09.
75. PC Dawe was then taken to page 45 of the agreed bundle which was a photograph of a number of trees and undergrowth in an apparent woodland area. This image was presented to the panel as exhibit RJD/10. PC Dawe stated that he had taken this image to show the tree and surrounding area from which the Officer had recovered his mobile phone. He stated that he had returned to this

location after the officer had left the area to capture the image and that it was taken during that same night and illuminated by his vehicle headlights.

76. Of note to the panel was the evidence provided by PC Dawe that he had witnessed the Officer move to a location behind the tree shown on RJD/10 when he recovered his mobile phone. PC Dawe stated that he observed the officer get out of the car driven by PS Balsdon, approach the tree and then go behind it and leave his line of direct sight. He stated that he then observed the Officer return from behind the tree holding his mobile phone which he recovered from him as exhibit RJD/01.
77. During cross examination, Counsel for the Officer directed PC Dawe to his statement at page 31 of the agreed bundle in which he stated that 'Deveau appeared to go straight to the area where he retrieved the phone which to me indicates that he knew where he had placed the phone rather than he had thrown it from the car'. Counsel put it to PC Dawe that he could not have known what the officer knew at that time which was accepted.
78. The panel noted that the AA stated in their opening note at paragraph 14 that *'The panel might also consider the muddy water shown in the foreground of the photograph at page 42. Mobile phones do not react well when they get wet, and they can be expensive items to replace. Is it likely that PC Deveau would have thrown his phone without regard to where it landed, given that there was clearly some groundwater in the area?'*
79. Following a question from the panel, PC Dawe stated that the image provided at page 42 of the agreed bundle (exhibit RJD/03) was not taken at the same time of the alleged incident. PC Dawe stated that the image appeared to have been taken in wintertime based upon the absence of leaves in the trees and as such was not representative of the time when the Officer recovered his mobile phone. PC Dawe also stated that he did not think that there was surface water on the ground, as shown in this image, when the Officer went to recover his mobile phone.

80. On that basis, the panel rejected the submission made by the AA in their opening note that muddy groundwater should be a factor in their consideration of the likelihood that the Officer would or would not have thrown his mobile phone as he had stated.
81. The Officer elected to provide oral evidence to the panel. In general terms, the Officer refuted the allegation that his actions at any point were designed to prevent or delay a prompt police investigation.
82. In his evidence, the Officer stated that his relationship with his former partner had broken down but that they continued to manage co-parenting responsibilities despite there being ongoing disagreements regarding their financial arrangements.
83. The Officer described the events of 29th July 2025 and stated that during the morning he was having difficulties with his former partner and that it was 'not the easiest situation' to manage. He stated that the challenges he was experiencing in his relationship breakdown with his former partner were giving him cause to worry about his ongoing access to their daughter. The Officer stated that on this date, he was also very concerned for the health of his mother who had an advanced form of cancer.
84. The Officer stated that on this date, he was on a rest day and his former partner was on duty. He described how he drove from his home (his parents' home) to his former partner's home to collect his daughter to take her to nursery. He described how he had an argument with his former partner at the address and that as he left with his daughter, she informed him that she was going to report him to the police.
85. During questions from the panel around why he believed she would have called the police, the Officer stated that she had told him that 'he was controlling her'. The Officer stated that he assumed that she would report him to the police for this alleged behaviour.

86. The Officer stated that he had collected his daughter from nursery during the afternoon and was taking her back to his former partner when he received a call from his father with the phone then being passed to PS Cole.
87. The Officer described the telephone conversation he had with PS Cole who informed him that he needed to speak to him. The Officer stated that he knew that PS Cole was calling in connection with the disagreement that had taken place with his former partner earlier that day. The Officer stated that he made an assessment that he was going to be arrested based upon his own experience as a police officer. The Officer stated that PS Cole informed him that he would be taken to Exeter custody unit. The Officer asked PS Cole if he could instead be taken to another custody unit as he knew a number of the officers and staff at Exeter.
88. Following the telephone call with PS Cole, the Officer stated that he needed to turn his car around to return to his parents' address. He stated that he did so in a wooded area and decided that he would get out of his car 'to vent'. He stated that he did not want to do so in the presence and hearing of his daughter who was in the car with him when he spoke to PS Cole.
89. The Officer described how he got out of his car, swore and paced around the wooded area. He stated that he was in a distressed state and thinking about how his unwell mother would react to his being arrested at her house and in the presence of his daughter.
90. The Officer described how he initially considered telephoning somebody who could take his daughter from him before he was arrested so that she would not need to witness this take place. He stated that he removed his mobile phone from his pocket and opened it but then decided that he would not do so as to wait for someone to arrive would delay his return home. He stated that he did not want to aggravate an already challenging situation by a delayed arrival at his parents' home where he knew he was to be arrested.
91. The Officer stated that he then decided instead to 'throw his phone' which he did out of frustration with the situation in which he now found himself.

92. He stated that his was at a time he was dealing with a difficult separation, working hard to remain a good father to his young daughter, and supporting his parents at a time when his mother was (and is) undergoing significant medical treatment for an advanced cancer.
93. He stated that these were matters that were, and are still, placing a significant strain on his mental welfare, and for which he is now receiving medical support.
94. It was against this background that the Officer stated that he threw his phone impulsively into a wood. He stated that it was not a deliberate act but one made in anger and frustration at the situation he found himself in.
95. The Officer stated that there was nothing on the phone that was relevant to any allegation that could be made or investigation that might have occurred. He stated that it was a spontaneous act fuelled by the realisation that he was about to be arrested in front of his daughter and parents.
96. Counsel directed the Officer to page 45 of the agreed bundle (exhibit RJD/10) and asked him to assist the panel by indicating where he had been stood when he threw away his mobile phone. The Officer stated that he had been stood in the area in front of the larger tree trunk shown in the image. The Officer stated that when he threw away the phone it landed slightly to the left of and slightly beyond the tree.
97. The Officer stated that when he threw away his mobile phone he was not thinking about its value but was instead not thinking calmly or clearly about what he was doing. He stated that when he spoke to PS Cole, he had been calm as he didn't want to upset his daughter but that he was suppressing and concealing from her considerable internal distress. He stated that he was outside of his car for between 1-5 minutes during which time he disposed of his mobile phone before he returned to his car and drove back to his parents' house.

98. The Officer stated that he then returned to his car and tried to calm himself before he drove he and his daughter back to his parent's house where he knew he was to be arrested.
99. Upon arrival at his parents' house, the Officer described how he was asked by the arresting officers where his mobile phone was. He informed the panel that he did not tell them where it was as he was more concerned at that time about his mother's health as she was not in her bed when he arrived at the address.
100. The Officer stated that he was not feeling calm or collected at this time. He stated that he was feeling upset and embarrassed that his arrest was taking place in front of his parents at their home and in front of his daughter.
101. The Officer stated that he had no concerns about anything on his mobile phone and that at that time, the location of the device was 'the last thing on my mind'. He stated that he was not aware that his mobile phone was required by the police officers to assist in their investigation at the time of his arrest.
102. The Officer then described how he was taken to Exeter custody unit where he consulted with his solicitor. Following consultation, the Officer stated that he provided a 'no comment' interview in relation to the criminal allegations made against him by his former partner. The Officer also provided 'no comment' responses to questions put to him regarding the location of his mobile phone (page 59 of the agreed bundle).
103. Counsel for the Officer asked him why he changed his approach after his criminal interview and only then agreed to provide officers with his mobile phone. The Officer stated that by that time his 'initial anger had dissipated' and that he knew he had nothing to hide. The Officer then stated that at the point of his arrest when he was asked for his mobile phone he was not thinking clearly.
104. The Officer stated that during the criminal interview process, he became aware for the first time of the precise nature of the allegations made by his former partner against him. He stated that he then knew that there was nothing within those allegations that would make his mobile phone of relevance to investigators.

105. The Officer then stated that he had not been waiting to establish from investigators the nature of the allegations before he decided that he would volunteer the location of the device.
106. The Officer then described how he drove with PS Balsdon to the wooded area whilst followed by PC Dawe and PC West. He stated that he got out of the car and walked to the area where he had thrown the device. He stated that he located it and handed it to PC Dawe and provided its PIN number. He stated that it was dark at this time and that he used the illumination provided by PS Balsdon's car to locate his device which he stated was 'sat on the top' of the undergrowth.
107. In concluding his evidence in chief, the Officer stated that he did not hide his mobile phone whilst he waited to find out the nature of the allegations made against him by his former partner. He also stated that his actions were not motivated by or intended to impede an investigation.
108. During cross examination, the Officer stated that his mobile phone was an Android design and several years old. He stated that he used it for social media purposes e.g. WhatsApp, that it contained data e.g. contact numbers for people which he had not stored anywhere else and also personal photographs.
109. In response to a question from Counsel for the AA, the Officer stated that he could not recall having thrown away anything else before that contained such personal information. He added that he was not thinking clearly at that time due to the distress and anger he was feeling.
110. Counsel for the AA put it to the Officer that he had approximately four hours between his arrest and the time of his criminal interview under caution. Counsel directed the Officer to his Regulation 31 response at paragraph 8 (page 95 of the agreed bundle) in which he stated that 'There was nothing on the phone that was relevant to any allegation that could be made or investigation that might have occurred.

111. Counsel for the AA asked the Officer why, if this was his view, had he not made an earlier decision to provide his mobile phone during that four-hour period and formed an assessment that to do so would have helped his case. Counsel put it to the Officer that he was 'hedging his bets' by delaying a decision to provide his mobile phone until he knew the precise nature of those allegations that he faced.
112. In response, the Officer stated he was more focussed at that time upon his daughter and parents. The Officer also stated that it was not until he spoke with Ms. McArthur during that evening that he was able to gain some greater clarity of thought and make more appropriate decisions.
113. Counsel for the AA then played to the Officer and panel the BWV of his arrest (exhibit TC/01) which clearly showed the arresting officer asking the Officer for his mobile phone. The Officer stated that his response not to provide his device was caused by his being upset and not thinking clearly but that he did agree that he had been asked for it.
114. Counsel for the AA put it to the Officer that he knew that the mobile phone was required to assist in the prompt and effective investigation of the allegations for which he was being arrested. In response, the Officer stated that his mobile phone had nothing to do with that investigation and that he therefore wasn't trying to hinder an investigation
115. The Officer was then directed to elements of his misconduct interview (pages 84-93 of the agreed bundle) in which he described a number of matters including reference to his mobile phone. Counsel for the AA asked the Officer if he had expected to recover the device at some point after his arrest and detention in custody. The Officer responded by stating that he didn't know what he had been thinking at that time.
116. Counsel for the AA then directed the Officer to the statement of PC Dawe (page 31 of the agreed bundle) in which he stated that whilst in Exeter custody unit, the Officer had stated 'I don't want to lose my phone for months'. The Officer accepted that he had made this comment but that he was referring to the likely

time that his mobile phone would have been retained by investigators conducting their examination of it. He stated that there was no connection between his decision to throw away his mobile phone and the comment that he made around it being out of his possession for that period.

117. The Officer was then directed to page 59 of the agreed bundle where he provided 'no comment' responses in his criminal suspect interview to questions concerning his mobile phone. Counsel for the AA stated that the Officer had approximately ten years of police experience and would have very well known that his mobile phone would be required for an investigation and that he must have made a conscious decision not to provide it at that time nor provide an account of its whereabouts.
118. Counsel for the AA further put it to the Officer that his account of how he had recovered his mobile phone was significantly different to that provided by PC Dawe. The Officer stated that he was able to immediately locate his device aided by the headlights of PS Balsdon's car and that PC Dawe was mistaken in his description of how he had recovered the device from behind the tree.
119. The panel received a submission from Mr. Jenkins that the primary issue for its consideration when determining the facts in this case, was the Officer's state of mind on the relevant date.
120. The AA's allegation was that the actions of the Officer had the effect of preventing those investigating criminal offences in relation to his former partner from undertaking a prompt investigation. It was further alleged that the actions of the Officer were intended by him to have that effect or delay an investigation.
121. Counsel for the Officer directed the panel to paragraph 2.24 of the Home Office Guidelines (H.O.G) which states:

'The duty to cooperate forms part of the Standards of Professional Behaviour under 'Duties and Responsibilities'. It reinforces the responsibility that a police officer has to cooperate fully where they are a witness in an investigation, inquiry or other formal proceedings. The responsibility is to participate openly and

professionally as a witness in a variety of circumstances including where the officer is a witness in an investigation into other officers' misconduct, be that an investigation by the Independent Office for Police Conduct (IOPC) or by the force itself'.

122. The panel were then directed to paragraph 2.25 which states;

A clear caveat must be placed on the duty that it applies specifically to where the officer's status is that of witness and does not apply in the same manner where the status of the officer is that of subject to investigation and where the right to remain silent must be upheld.

123. The panel heard submissions from Counsel for the Officer in which it was stated that as an identified suspect in criminal proceedings, the Officer was under no obligation to assist in the police investigation and was not obliged to answer any questions. Counsel further submitted that from the point of the telephone call from PS Cole onwards, the Officer was entitled to silence and not to self-incriminate.

124. The panel received a submission from defence Counsel that having been identified as a suspect for a criminal offence, the actions of the Officer should be considered from the perspective of the important safeguards provided to him under both legislation (PACE) and common law before any other test was applied in their consideration of the evidence presented by the AA.

Panel Decision

125. The panel reminded itself of the purpose of misconduct proceedings and the evidential burden that was upon the AA to prove the allegations against the Officer. It further reminded itself that the standard of proof to be applied in its determinations was upon the balance of probabilities.

126. The panel approached this task by firstly deciding the facts (**Factual Determinations**);

127. The panel carefully considered the evidence provided in the agreed bundle, the oral evidence provided by PS Cole, PC Dawe, the Officer and the submissions from Counsel. They were also provided with legal advice from Mr. Rickard.
128. The panel noted that this was a finely balanced case where the facts presented to it had been limited in scope.
129. The panel carefully considered the allegations against the Officer that he had left his mobile phone in woodland which had the effect of preventing a prompt investigation of possible criminal offences in relation to his former partner and that his action was intended to have that effect.
130. The panel carefully considered the submissions made by the Officer's Counsel regarding his status as a criminal suspect, the protections afforded to suspects under the Police and Criminal Evidence Act 1984 (PACE) and the common law privilege against self-incrimination.
131. The panel found factually proven that prior to placing his mobile phone in woodland, the Officer had been informed by PS Cole that he was suspected of a criminal offence and that arrangements were made for his arrest and his being taken to Exeter custody unit. The panel was satisfied that from that point onwards, the Officer understood that he was subject of a criminal allegation and as such, was regarded as a suspect.
132. The panel accepted the submission from counsel for the Officer that this chronology of events was of significance to this hearing. The panel found that at the time of his placement of the mobile phone in the woodland, the Officer was not acting as a witness or unconnected party.
133. They found that the Officer had now assumed the status of a suspect in a criminal investigation and that he knew that his arrest was imminent. The panel found that the Officer was therefore entitled to the statutory and common law protections afforded to suspects within the criminal justice system. The panel found that paragraph 2.25 of the H.O.G was engaged for the purposes of their assessment of factual determinations.

134. Whilst the panel recognised the safeguards provided by PACE and the common law privilege against self-incrimination, they did not find that they provide a police officer, when identified as a criminal suspect, with unconditional immunity from scrutiny of their conduct.
135. Equally however, the panel found that those protections exist to ensure that a suspect within the criminal justice process is not placed under an obligation to assist investigators in building a case and is not penalised for exercising those protections. The panel found that these protections were recognised and reinforced in paragraph 2.25 of the H.O.G.
136. The panel received legal advice from Mr. Rickard in their consideration of the submission from Counsel for the Officer on this important matter. Mr. Rickard advised the panel that the safeguards provided by PACE and common law were often “qualified rights” and the consequences of silence, ignoring special warnings and the like may affect any criminal proceedings brought.
137. He further advised the panel that sometimes it is the case that specific criminal offences are in place to deal with the withholding by a suspect of information such as access codes and passwords to phones and computers. He advised the panel that these offences were not engaged in this case.
138. Mr. Rickard informed the panel that it would, in these circumstances, be wrong to impose a separate and different set of rights on the Officer who had been arrested on suspicion of committing a criminal offence and not at that stage served with misconduct papers. He stated that the Officer was not served with those papers until two days after the alleged incident, by which time he had produced his mobile phone for examination by the police in the criminal investigation.
139. The panel therefore approached with great caution the submissions advanced by the AA that an adverse inference should be drawn from the Officer’s alleged actions after he had been informed that he was to be arrested and when he was aware of his status as a suspect.

140. The panel determined that the officer could and should have behaved differently and said things in a different way but that was not an issue for the panel in the circumstances that the officer found himself in at that time. By the time the misconduct investigation was notified to him, and subsequently took place, the Officer had been compliant with the request even if it was to provide a phone that was not subsequently examined and where no substantive criminal charge was laid against him.
141. The panel determined that the Officer was under no obligation to take positive steps to preserve potential evidence for investigators in accordance with paragraphs 2.24 and 2.25 of the H.O.G following his identification as a suspect.
142. On that basis, the panel found that the Officer's actions in which he placed his phone in woodland, failed to provide its location and then to provide a 'no comment' criminal suspect interview in relation to its location could not be used against him in their determination of findings.
143. The panel therefore determined that the Officer's alleged actions, once identified as a suspect, could not automatically inform a finding of dishonesty or obstruction against him.
144. Accordingly, the panel found that they should scrutinise carefully the evidence presented by the AA in this case before adverse inferences of the Officer's actions were drawn. The panel then considered whether the AA had presented any other evidence beyond the act of concealment of the mobile phone that could demonstrate an intention to delay a prompt criminal investigation or had that effect, as alleged in the Regulation 30 notice.
145. The panel were not provided with any evidence to refute the Officer's case that he was suffering an episode of personal distress at the time he placed his mobile phone in the woodland. The Officer stated that he was not thinking clearly at that time due to a combination of his relationship break down, his argument with his former partner that morning, his having been told that he was to be arrested for a

criminal offence in front of his parents and his child and that he was to be taken to a custody unit where he knew a number of the people who worked there.

146. Other than its placement in the woodland, the panel were not provided with any evidence that the Officer had an intention to prevent investigators from accessing his mobile phone. The AA invited the panel to infer that this intent was made out from the actions of the Officer and the timing of his concealment of his mobile phone in the woodland.
147. The panel accepted that the timing of the Officer's actions following his telephone discussion with PS Cole could be considered as cause to draw this inference and find this intent made out. However, for the reasons outlined above, the panel determined that they should apply particular caution in their assessment of the conduct relied upon by the AA as it took place after the Officer had been informed that he was a criminal suspect and was to be arrested.
148. The panel found that the Officer was entitled to avail himself of his status as a suspect and the statutory and common law safeguards that this provided him when he placed his mobile phone in the woodland. The panel determined that it would not have been fair to draw an inference from the Officer's placement of the mobile phone without supportive evidence being provided to demonstrate his intention at that time.
149. The panel would have expected to be provided with direct evidence by the AA that the mobile phone would or could have been an important line of enquiry in the criminal investigation being undertaken. No such evidence was provided. The panel noted the reference to the investigative importance of the device provided by PS Von Memerty in his statement of evidence (page 37 of the agreed bundle) where he stated that its absence 'may hinder the investigation'. The panel also noted the account of PS Cole provided in his oral evidence where he stated that the recovery of the mobile phone was an important investigative line of enquiry.
150. Whilst the panel noted this evidence, they would have expected more detailed evidence to have been provided that directly demonstrated the investigative

importance of the mobile phone as a line of enquiry and how its absence prevented a prompt investigation from taking place.

151. In the absence of such evidence, the panel were unable to determine on the balance of probabilities that the Officer's alleged actions had the effect of preventing a prompt investigation from taking place.

152. The panel also noted that following its recovery, the Officer's mobile telephone was not made subject of any form of digital forensic examination during either the original criminal investigation or the subsequent misconduct investigation.

153. Consequently, the panel had no evidence of the contents of the device. They could not determine whether it contained material relevant to the investigation. They were unable to assess whether any material had been deleted which may also have demonstrated any intent by the Officer to delay a prompt investigation. Nor could they establish whether any reasonable investigative lines of enquiry were delayed by its initial non-production. Therefore, they could not determine whether investigators were unable to promptly secure and preserve evidence that might otherwise have been obtained had it been provided after the Officer's arrest.

154. Given the failure to examine the device and provide the panel with evidence of the investigative impact of the Officer's alleged actions, they were unable to draw any finding of the impact upon the investigation as alleged in the Regulation 30 notice.

155. The panel determined that in the absence of specific evidence presented by the AA in direct support of the allegations placed against the Officer, they would be required to engage in speculation, This speculation would have been required for the panel to determine what information the mobile telephone contained, whether any information could have been recovered from it to assist in a prompt investigation and the potential, or likely, investigative impact of it not having been provided by the Officer for immediate examination.

156. The panel declined to engage in such speculation in their assessment of the evidence presented to it in their determination of facts in this case.

157. The panel found that the evidence presented by the AA established only that the Officer placed his mobile telephone in woodland after becoming aware that he was a suspect for a criminal investigation and was to be arrested.
158. Leaving aside the issues relating to PACE and the common law safeguards afforded to the Officer, the panel found that for the evidential reasons set out above, that the AA had not proved its case on the balance of probabilities. They found that it had not shown that the Officer's actions prevented or delayed those investigating potential criminal offences involving his former partner from conducting a prompt investigation.
159. Equally, the panel also found that the AA had not proven on the balance of probabilities that the Officer's actions were intended to have that effect.
160. Accordingly, the panel found the allegations in this hearing were **not proven**.

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

Mr. Tim Smith (Independent Panel Member)

Ms. Claire Martin (Independent Panel Member)

18th June 2026.