

IN THE MATTER OF A POLICE MISCONDUCT HEARING

PURSUANT TO THE POLICE (CONDUCT) REGULATIONS 2020

DEVON & CORNWALL POLICE

Appropriate Authority

v.

POLICE CONSTABLE 1853 DAVID BURNARD

&

FORMER POLICE CONSTABLE 19104 BIJAN DAVARIAN

NOTICE UNDER REGULATION 43

OUTCOME OF MISCONDUCT HEARING

Hearing Details

2nd - 6th March 2026 held in person at Reed Hall, Exter.

Panel

ACO Ian Saunders – Devon & Cornwall Police (Chair)

Mr. Alexander Alder-Westlake (Independent Panel Member)

Ms. Angela Lawson (Independent Panel Member)

Mr. James Rickard (Legally Qualified Person)

Representatives

Counsel for the Appropriate Authority – Mr. Mark Lay-Morgan

Counsel for PC Burnard – Ms. Shade Abiodun

Police Federation Representative for PC Burnard – Mr. Mark Atkins

Terminology:

“A/A” - Appropriate Authority

“LQP” - Legally Qualified Person (the legal advisor to the Panel)

“PC Davarian” - Former PC Davarian

“The officers” – PC Burnard and PC Davarian

“The Guidance” - College of Policing Guidance on Outcomes on Police Misconduct Proceedings

“NDM”- National Decision-Making model

‘APP’ – Authorised Professional Practice

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 Burnard and PC Davarian.
2. The hearing was conducted in person at Reed Hall, Exeter. Members of the public were permitted to attend, however none did so. PC Burnard was present throughout the hearing.
3. Following submissions received by the Chair, it was agreed that anonymity would be granted to the person who jumped/or fell from the car park ledge during the incident to which this hearing relates. This person is referred to as Ms. A in this Regulation 43 report.
4. The Panel noted the submission made by the A/A that it did not rely on the evidence of one officer to prove the case against the other officer during this hearing.
5. Regulation 25 provides that joint misconduct proceedings may take place subject to the conditions provided. Following a submission from the A/A, that was not challenged by Counsel for PC Burnard, it was agreed by the Chair that the officers' cases would be heard together as a joint misconduct proceeding. The rationale for this decision was that the Panel would have to make determinations on the facts that are common to both officers. The Panel reminded itself however that they must consider each officer's case separately.

6. The Panel noted the submission made by the A/A that it did not allege that the outcome of this incident would have been any different if either officer had acted differently.
7. PC Davarian resigned from Devon and Cornwall Police in July 2024 and was therefore dealt with during this hearing under the former officer provisions of the Conduct Regulations. Although he is no longer a serving officer, for the sake of convenience, he will be referred to as 'PC Davarian' in this document.
8. The Panel was informed that PC Davarian had decided not to engage in this hearing. PC Davarian was not represented at the hearing however, he did provide a Regulation 31 response to the A/A on 23rd February 2026.
9. PC Davarian was aware that the hearing was taking place and chose not to attend. He did not request that the hearing be adjourned or that he be permitted to attend remotely.
10. Regulation 37(3)(b) provides that the hearing may proceed in an officer's absence. On that basis, and absent any submissions made to the contrary, the Panel agreed to proceed in PC Davarian's absence.
11. During this hearing, live oral evidence was heard from PC Burnard and the following witnesses:
 - (i) Police Sergeant Bethany Vinnicombe

(ii) Police Inspector Emma Brimicombe

12. The Regulation 30 Notices were served on the officers which specified a number of allegations. To assist the reader of this Regulation 43 notice, the allegations contained within the Regulation 30 notices have been copied into this notice as per below.

Allegations: PC Burnard

Alleged Facts

- 1. On the evening of 6th October 2023, you were on duty in company with PC Davarian who you were tutoring.*
- 2. Shortly after 10.23 pm you drove into the Charles Cross Police Station car park in a police vehicle.*
- 3. You parked the police vehicle and both you and PC Davarian got out.*
- 4. Before entering the police station on foot, you became aware that a female (Ms. A) was sitting on the boundary wall of the third storey of the Regent Street Multi-Storey car park.*
- 5. Before entering the police station, you saw that both of Ms. A's legs were dangling over the edge of the wall.*
- 6. Alternatively, before entering the police station, you took no action to establish how Ms. A was sitting on the wall.*
- 7. Before entering the police station, you heard Ms. A shouting and/or singing.*
- 8. You had sufficient information before you entered the police station to enable you to form the view that Ms. A:*

(a) May be intoxicated through drink or drugs.

(b) May be suffering from a mental health issue.

(c) Was at risk of suffering serious injury if she jumped or fell from the third storey of the carpark.

9. You discussed Ms. A's presence with PC Davarian as the two of you made your way into the police station.

10. You entered the police station without taking any steps to protect Ms. A's welfare.

11. Once in the police station you took no steps to:

(a) Protect Ms. A's welfare.

(b) Inform any of your colleagues of where Ms. A was.

12. On the instruction of PS Vinnicombe, you and PC Davarian left the police station to deal with Ms. A.

13. After arriving at the third floor of the car park you did not act in accordance with your training or follow the National Decision Model.

14. As you were speaking to Ms. A she fell or jumped from her position on the wall.

Alleged Breach – Duties & Responsibilities

You breached the Standard of Professional Behaviour concerning Duties & Responsibilities because you failed to:

1. Conduct any or any meaningful risk assessment.

2. Take any or any sufficient steps to protect Ms. A's welfare.

3. Draw Ms. A's presence on the wall to the attention of your colleagues.

4. Seek prompt assistance from colleagues.

5. Act in accordance with the NDM and/or your training.

Alleged Breach – Discreditable Conduct

Your behaviour brings discredit upon the police service and undermines public confidence in it because a reasonable member of the public would be justifiably concerned that you had failed to take any or any sufficient steps to protect a member of the public from an obvious risk of harm. It is alleged that your breach of the Standards of Professional Behaviour, if proved, amounts to gross misconduct.

Allegations: PC Davarian

Alleged Facts

- 1. On the evening of 6th October 2023, you were on duty in company with PC Burnard who was acting as your tutor.*
- 2. Shortly after 10.23 pm PC Burnard and you drove into the Charles Cross Police Station car park in a police vehicle.*
- 3. PC Burnard parked the police vehicle and both you and he got out.*
- 4. Before entering the police station on foot, you became aware that a female (Ms. A) was sitting on the boundary wall of the third storey of the Regent Street Multi-Storey car park.*
- 5. Before entering the police station, you saw that both of Ms. A's legs were dangling over the edge of the wall.*
- 6. You discussed Ms. A's presence with PC Burnard as the two of you made your way into the police station.*
- 7. On the instruction of PS Vinnicombe, you and PC Burnard left the police station and went up to the third floor of the car park.*
- 8. Shortly after you arrived on the third floor, Ms. A fell or jumped from her position*

on the wall.

9. *During the IOPC investigation into the incident, you stated in interview on 11th March 2024 and in a statement dated 16th March 2024 that before you entered the police station you could only see the top half of Ms. A's body and thought she was leaning on the wall not sitting on it.*

Alleged Breach – Honesty & Integrity

You breached the Standard of Professional Behaviour concerning Honesty & Integrity because you intentionally lied when you stated that before you entered the police station you could only see the top half of Ms. A's body and thought she was leaning on the wall not sitting on it.

Purpose of misconduct proceedings

13. In *R (On the application of Redgrave) v Commissioner of Police of the Metropolis* [2003] EWCA Civ 4 at [33], Simon Brown LJ made it clear that the character and purpose of misconduct proceedings was “*to protect the public and to maintain the high standards and good reputation*” of the policing profession”.
14. In *R (Green) v Police Complaints Authority* [2004] UKHL 6 Lord Carswell stated [para 78]:

“*Public confidence in the police is a factor of great importance in the maintenance of law and order in the manner which we regard as appropriate in our polity. If citizens feel that improper behaviour on the part of police officers is left*

unchecked and they are not held accountable for it in a suitable manner, that confidence will be eroded.”

The Panel’s Approach

15. During this hearing, the Panel took the following approach:
 - (i) First, to consider the facts of the case and to make findings in relation to each of the facts alleged by the A/A.
 - (ii) Second, to determine whether those facts found proved constituted one or more breach(es) of the relevant standards.
 - (iii) Third, to determine whether any conduct found proven against PC Burnard and PC Davarian amounted to misconduct or gross misconduct.
 - (iv) Fourth, and if appropriate, to decide what the outcome should be.

16. The Panel reminded itself that the burden of proof is on the A/A throughout the hearing and that the standard of proof is the balance of probabilities, namely what is more likely than not to have occurred.

17. The Panel also reminded itself of the Home Office Guidance (Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing, 2020) and, in particular, paragraph 9.10 which reads as follows: *“In deciding matters of fact, the persons conducting the misconduct meeting or hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities.”*

18. In approaching its task, the Panel has borne in mind that:
- a. We do not have to decide every matter of dispute, only those which assist us as to whether these allegations are proved.
 - b. We can draw inferences from the evidence submitted to us, meaning we can reach common sense conclusions from the evidence, but we have guarded against falling into speculation when reaching those conclusions.
 - c. Inevitably our findings are set out sequentially however we have not made any finding of fact without having first considered the entire evidential matrix.

Documents and Evidence

19. The Panel was provided with the following documents and evidence in advance of the hearing:
- (i) A main bundle of 494 pages that had been agreed by both parties.
 - (ii) Body worn video, a number of items of CCTV and additional photographs and video recordings provided to the Panel during the hearing
20. Mr Ley-Morgan provided the Panel with a helpful opening note which had been agreed by Counsel for PC Burnard. This opening note sets out several issues including the agreed and disputed facts for this hearing.

21. For ease of reference, those agreed and disputed facts as provided in the opening note are copied and shown below.

a) **Facts Not in Dispute**

Ms. A's Movements 22:16:00 to 22:22:48

- *Ms. A's movements between 22:16:00 and 22:22:48 are helpfully set out in paragraphs 55 to 104 of the IO's report [38].*
- *At about 22:12 Ms. A was on Regent Street where she was spoken to by PC Benwell. PC Benwell recorded his interaction with Ms. A on his BW camera (PC Benwell BWV) and [202 - transcript].*
- *After speaking to PC Benwell, Ms. A made her way on foot along Regent Street and entered the Regent Street multi-storey car park ("the MS car park") at 22:16 (CP1).*
- *Ms. A made her way to the third floor of the MS car park.*
- *At 22:22:03 Ms. A momentarily (for 8 seconds) straddles the wall of the MS car park that 'overlooks' the Charles Cross Police Station car park ("the PS car park") below. She then returns back over the wall and into the car park (CC4)*
- *At 22:22:48 Ms. A straddles the wall again (CC4).*

Officer's arrival in the police station car park

- *At 10:23:22 the officers enter the police station car park in a police car. PC Burnard is driving (CC1 and CC4).*

- *By 22:24:01 PC Burnard has manoeuvred the car into a space in a covered area and the car is stationary (CC1).*
- *At 22:24:30 the doors of the police car open and the officers get out (CC1).*
- *The officers walk from the car towards the police station and enter the building at 22:24:47 (CC1 and CC3).*
- *Consequently, about 17 seconds elapses between the officers getting out of the car and them entering the police station.*

Ms. A's position during the '17 seconds'

- *Ms. A was straddling the wall when the officers entered the PS car park at 22:23:22 (CC4).*
- *At 22:24:20 (whilst the police car is stationary) Ms. A pulls her other leg over the wall so that she is sitting with both legs dangling over the wall above the PS car park (CC4).*
- *Consequently, when the officers got out of the car at 22:24:47, Ms. A was sitting with both legs over the wall.*
- *Ms. A remains in that position for the whole of the '17 seconds' it takes the officers to move from the car to the police station building (CC4).*

Ms. A singing/shouting

- *Ms. A was singing/shouting sufficiently loudly during the '17 seconds' for her to be heard in the custody holding area where the door was open (CC5).*

Discussion between the officers about Ms. A

- *Both of the officers admit that as they walked into the station from the car, PC Davarian asked PC Burnard whether they should do something about Ms. A*

PC Davarian in the police Station

- *PC Davarian went to the briefing/response room.*

PC Burnard in the police station

- *PC Burnard went directly to Insp. Brimicombe's office and remained there until he was informed that he was to go out and deal with Ms. A.*

PS Strachan and PC Lenden

- *At about 22:30:00 PS Strachan (who had just finished his shift) spotted Ms. A sitting on the wall of the MS car park with both legs over the wall.*
- *PS Strachan went to the custody holding area and asked PC Lenden to keep an eye on Ms. A and to 'shout up' for someone to go and speak to her (CC5)*
- *PC Lenden did as PS Strachan requested. His 'shout up' was made at 22:29:07 (CC5 and transcript [218]).*

PS Vinnicombe

- *Having overheard what PC Davarian said about Ms. A, PS Vinnicombe told PC Davarian to go and get PC Burnard and the two of them should go and deal with Ms. A.*

- *PC Davarian then went to the Inspector's office and told PC Burnard what PS Vinnicombe had said.*

Officers Exiting the station

- *The officers were in the station for about 8 minutes (CC1 and CC4).*
- *When they came out, they walked across the PS car park and went into the MS car park at about 22:34:14 (CC1 and CC4).*
- *As they walked across the PS car park, Ms. A was sitting on the wall of the MS car park with both legs dangling over into the PS car park (CC4).*
- *Ms. A made a number of comments as the officers crossed the PS car park. She can be heard saying "Don't come near me or I'll..." (CC5) but the AA accepts that this was said whilst the officers were climbing the stairs in the MS car park.*
- *The officers arrived on the 3rd floor of the MS car park at about 22:34:40 (CC4 and PC Burnard's BWV 1).*
- *As the officers crossed the 3rd floor towards Ms. A she said, "Don't come near me I said" (Burnard BWV 1).*
- *PC Burnard did not stop walking towards Ms. A.*
- *Ms. A fell from the wall about 11 seconds after the officers arrived on the 3rd floor (PC Burnard's BWV 1).*

Post-Incident

- *At 22:57:43, during a conversation with PC Buckley, PC Burnard said (in the presence of PC Davarian) (PC Burnard's BWV 2):*

- *“So, female was sat up there as we’ve come into the car park. We’ve come in. I’ve gone to speak to one zero. You’ve gone to speak to a Sergeant, haven’t you?”*
- *PC Davarian said “Yeah”.*

b) Disputed Findings of Fact

The A/A submitted that the Panel would have to make determinations of fact on the following issues:

- (a) Whether PC Davarian saw Ms. A sitting on the wall.*
- (b) Whether PC Burnard saw Ms. A sitting on the wall.*
- (c) Whether PC Burnard took any action to establish how Ms. A was positioned.*
- (d) Whether PC Burnard heard Ms. A shouting/singing whilst they were moving from the car to the police station building.*
- (e) What PC Davarian and PC Burnard discussed about Ms. A presence in the MS car park.*
- (f) Whether PC Burnard had sufficient information, before he entered the police station, to enable him to form the view that Ms. A:
 - i. May be intoxicated through drink or drugs.*
 - ii. May be suffering from a mental health issue.**

iii. *Was at risk of suffering serious injury if she jumped or fell from the third storey of the car park.*

(g) *Whether PC Burnard entered the police station without taking any steps to protect Ms. A's welfare.*

(h) *Whether, once in the police station PC Burnard took any steps to:*

i. *Protect Ms. A's welfare.*

ii. *Inform any of his colleagues of where Ms. A was.*

(i) *Whether PC Burnard acted in accordance with his training.*

(j) *Whether PC Burnard followed the National Decision Model (NDM).*

Findings of Fact

22. The Panel approached the first stage of their considerations by assessing the facts presented by the A/A and the evidence provided in the agreed bundle.

23. For ease of interpretation, the Panel's assessment of the evidence will be shown against each of the disputed facts presented by the A/A in their opening note and as referenced in paragraph 18 (B) of this report.

(a) Whether PC Davarian saw Ms. A sitting on the wall:

- The Panel considered the video evidence and the contents of the bundle including the statement provided by PC Davarian.
- Video exhibit CC4 clearly showed Ms. A sitting on the wall of the multi-storey car park facing towards the direction from which the officers approached.
- The Panel viewed video exhibit CC2 at approximately 22:24:45 which showed a potential movement of PC Davarian's upper body towards the car park.
- However, the quality of that footage did not allow the Panel to determine to the necessary standard of proof whether it was more likely than not that PC Davarian looked directly at Ms. A.
- The Panel considered the audio evidence from exhibit CC5 at approximately 22:23:36. It was agreed between the parties that the female voice heard singing on that recording is Ms. A.
- The Panel noted the geographic proximity between Ms. A and PC Davarian at that time. The Panel determined that her singing would have been clearly audible during the time that PC Davarian walked from the vehicle to the station entrance.
- The Panel considered the statements provided by the response police officers in the station in which they describe how PC Davarian stated to them that there was a female on the car park wall with her legs over the side.
- Considering Ms. A's visible position on the car park wall, the proximity of PC Davarian to her, the audible singing which would likely have drawn attention to her presence, together with the evidence that he described her position to a number of police officers, the Panel found on the balance of probabilities that PC Davarian did see Ms. A sitting on the wall.

(b) Whether PC Burnard saw Ms. A sitting on the wall:

- The Panel considered the oral evidence of PC Burnard. his Regulation 31 response, his IOPC interview and the available video and audio evidence.
- In his evidence, PC Burnard stated that he noticed a figure in his peripheral vision as he walked from the police vehicle towards the station entrance.
- In his IOPC interview he stated that he noticed a female in the car park in his peripheral vision. However, in his Regulation 31 response he stated that he did not see anyone in the car park. The Panel noted the inconsistency between those accounts.
- Video exhibit CC4 showed Ms. A sitting on the wall near the path taken by the officers as they walked towards the station entrance.
- The Panel further considered audio exhibit CC5 which records Ms. A singing at a volume that would likely have been audible to people walking in that area at the relevant time.
- Taking these matters together, including the proximity of Ms. A and the audible singing which would reasonably have drawn attention to her presence, the Panel found that on the balance of probabilities PC Burnard did see Ms. A sitting on the wall.

(c) Whether PC Burnard took any action to establish how Ms. A was positioned:

- The Panel considered PC Burnard's Regulation 31 response in which he accepted that he did not take any action himself to establish the identity or position of the person in the car park or whether they posed any danger to themselves or others.

- The Panel also considered his evidence in which he accepted that he should have shown greater 'professional curiosity' and that he did not ask further questions or look towards the car park to establish the position of the individual.
- On that basis, the Panel found on the balance of probabilities that PC Burnard did not take any action to establish how Ms. A was positioned during the period between the officers arriving and entering the police station.

(d) Whether PC Burnard heard Ms. A shouting/singing whilst they were moving from the car to the police station building:

- The Panel considered video recording CC5.
- The Panel calculated that at approximately 11 minutes and 40 seconds into that recording, the officers had exited their vehicle and walked towards the police station entrance. During that time a female voice, agreed by the parties to be Ms. A can clearly be heard singing.
- Given the proximity between Ms. A and the officers, and the volume Ms A's voice that can be heard on the CC5 recording, the Panel found on the balance of probabilities that PC Burnard did hear Ms. A shouting or singing as he walked from the vehicle to the police station building.

(e) What PC Davarian and PC Burnard discussed about Ms. A presence in the multi-storey car park:

- The Panel considered the accounts provided by each officer separately and did not rely upon the evidence of one officer to prove the case against the other.
- The Panel found from the available evidence that there was a conversation between the officers as they walked towards the police station in which the presence of a person in the car park was mentioned and the question of whether any action should be taken was discussed.
- The Panel found that PC Burnard did give an instruction to PC Davarian that he should bring to the attention of the duty sergeant and other response officers the presence of Ms. A on the car park wall.
- The Panel found that the PC Burnard informed PC Davarian as they ascended the stairwell of the multi-storey car park that he intended to establish a dialogue with Ms. A for the purposes of gathering information to assist his development of an NDM focused response to the incident.

(f) Whether PC Burnard had sufficient information, before he entered the police station, to enable him to form the view that Ms. A:

- (a) May be intoxicated through drink or drugs.**
- (b) May be suffering from a mental health issue.**
- (c) Was at risk of suffering serious injury if she jumped or fell from the third storey of the car park.**

- The Panel had already found that PC Burnard saw Ms. A sitting on the ledge of the third level of the car park and heard her singing.
- The Panel noted that from video evidence provided that Ms. A was positioned on the ledge with her legs over the side and that she was singing loudly.
- The Panel found that a person sitting on the ledge of a multi-storey car park would or should present an obvious risk of serious injury should they fall or jump.
- Taking these matters together, the Panel found on the balance of probabilities that PC Burnard had sufficient information at that stage to form the view that Ms. A may have been intoxicated by drink and/or drugs and/or experiencing a mental health difficulty and that she was at risk of serious injury if she fell or jumped from the ledge.

(g) Whether PC Burnard entered the police station without taking any steps to protect Ms. A's welfare:

- The Panel found that PC Burnard took a limited step to protect Ms. A's welfare by directing that PC Davarian should bring to the attention of the duty sergeant and other response officers the presence of Ms. A.
- However, the Panel found that those steps were insufficient to properly assess or manage the potential risk to Ms. A's welfare at that time.
- The Panel had already determined that PC Burnard, by his own admission, failed to demonstrate sufficient professional curiosity and therefore they found that he had not taken appropriate steps to protect Ms. A's welfare between exiting his police car and entering the police station.

(h) Whether, once in the police station PC Burnard took any steps to:

(a) Protect Ms. A's welfare.

(b) Inform any of his colleagues of where Ms. A was.

- In fairness to PC Burnard, the Panel have approached this disputed fact in a two-stage approach.
- They first considered the actions of PC Burnard between the time he entered the police station car park and when he entered the police station. They then considered the steps and actions he took after he left the station and dealt with Ms. A even though this separation of phases is not defined within this disputed fact by the Appropriate Authority.
- The Panel have already found that PC Burnard delegated to PC Davarian the task of speaking with the duty sergeant and response officers regarding the situation in the car park.
- Whilst the Panel accepted that PC Burnard gave this direction to PC Davarian, they were mindful that PC Davarian was an officer with only three days of operational service on the date of this incident.
- The Panel found that PC Burnard did not take any action whilst in the police station to protect Ms. A's welfare.
- The Panel found that PC Burnard failed to inform the duty inspector during his meeting with her or any other colleagues in the station of Ms. A's presence or the potential risks arising from her position on the car park ledge.
- The Panel then turned to their assessment of the actions of PC Burnard after he left the police station to protect Ms. A's welfare and inform colleagues of her location.

- The Panel noted that PC Burnard only responded to the risk to Ms. A's welfare following a direct order from PS Vinnicombe for him to leave the station immediately with PC Davarian and deal with the incident.
- The Panel found that PC Burnard then responded to the incident by entering the multi-storey car park with PC Davarian and explained to him how he intended to engage Ms. A in conversation to begin the information gathering process described within the National Decision-Making Model (NDM).
- The Panel found that the interaction between PC Burnard and Ms. A lasted 11 seconds and that during this very short span of time, he approached Ms. A in a controlled and supportive manner and sought to engage her through open questioning.

(I) Whether PC Burnard acted in accordance with his training:

- Other than PC Burnard's description to an IOPC investigator that he had received an informal presentation at some stage during his training on the role of a negotiator, he was unable to recall any other training of relevance to this incident he had received. He further stated to the IOPC investigator that he never seen, nor had awareness of, the College of Policing APP on mental health and vulnerability.
- The Panel noted that the Appropriate Authority had not provided it with any evidence that showed the specific content and date(s) of training inputs that PC Burnard had received of relevance to the allegations placed against the officer.
- The Panel were provided with a copy of an undated training record dealing with Hostage & Crisis Negotiation and Suicide Intervention (pages 433-484 of

the agreed bundle) that PC Burnard stated in his evidence he had been briefed on an unknown date during his training.

- The Panel have carefully considered the contents of the APP provided to them in the agreed bundle.
- The Panel found that during his interactions with Ms. A during the 11 seconds of contact PC Burnard had with her inside the car park, the officer displayed an appropriate use of active listening and communication skills in compliance with the relevant section of the APP and the Crisis Negotiation presentation provided in the agreed bundle.

(j) Whether PC Burnard followed the National Decision Model (NDM):

- The Panel have considered this disputed fact in several stages.
- The first stage deals with the actions of PC Burnard and his following of the NDM from his time of arrival in the police station car park to the point at which he is ordered by PS Vinnicombe to leave the station.
- For this first stage, the Panel had already found that PC Burnard had failed to respond appropriately to the presence of Ms. A on the car park ledge.
- The Panel found that for this stage of the incident, PC Burnard had therefore failed to gather information to inform his assessment of risk and that he failed to correctly act in compliance with the NDM.
- The second stage of Panel deliberation focused upon PC Burnard's following of the NDM after his leaving the station to the point where Ms. A fell or jumped from the car park ledge.
- For this second stage the Panel found that PC Burnard demonstrated an awareness of the requirement to gather information in relation to Ms. A to

assist in his assessment of risk.

- The Panel carefully considered the evidence of PC Burnard's actions and his discussion with Ms. A in the car park supported by his body worn video evidence (BWV1).
- They found that the officer's actions to establish a conversation with Ms. A in very challenging circumstances were an appropriate demonstration of his intention and his actions taken to follow the NDM.
- The Panel therefore found that PC Burnard was following the NDM during this stage of the incident when considered against the very challenging circumstances faced by the officer during the 11 second period of interaction with Ms. A.

Determination of Breaches of the Standards of Professional Behaviour

24. Having conducted the fact-finding assessment against each of the disputed facts in this hearing, the Panel then determined which of the alleged breaches of the Standards of Professional Behaviour had been proven by the A/A against each officer.
25. The Panel reminded itself once again that the burden of proof is upon the A/A throughout the hearing and that the standard of proof required is the balance of probabilities, namely what is more likely than not to have occurred.

PC Burnard – Alleged Breaches: Duties & Responsibilities

(i) Conduct any meaningful risk assessment

- During the fact-finding stage, the Panel found that PC Burnard would have been aware of Ms. A's presence on the car park ledge and that her seated position should/or could have given him reason to identify a risk to her safety and welfare.
- PC Burnard's own admission that he failed to display sufficient 'professional curiosity' in response to PC Davarian bringing Ms. A's presence on the car park to his attention, provided the Panel with further evidence that supported their assessment of the officers' alleged breach.
- For the full reasons provided in the Panels assessment of the facts considered in this case, they determined that PC Burnard had not conducted a meaningful risk assessment in relation to the presence of Ms. A on the car park ledge.
- On this basis, the Panel found this allegation **PROVEN.**

(ii) Take any or any sufficient steps to protect Ms. A's welfare

- The Panel had already found that PC Burnard had been aware of Ms. A's presence on the car park ledge and that he had failed to conduct a meaningful risk assessment at that stage of the incident.
- The Panel did however consider the actions of PC Burnard throughout the incident through the lens of two stages. The first stage being between his arrival in the police station car park and his then leaving the station to deal with Ms. A. They then considered his actions during the second stage which was between his leaving the police station and Ms. A jumping or falling from the car park ledge.

- During the first stage, the Panel found that PC Burnard's proven failure to conduct a risk assessment and his self-admitted failure to demonstrate sufficient 'professional curiosity' were supportive of its finding that PC Burnard did not take sufficient steps to protect Ms. A's welfare.
- The Panel also considered the action of PC Burnard in his tasking of PC Davarian to inform the duty sergeant and response officers of Ms. A's presence.
- Whilst the Panel gave PC Burnard some credit for this tasking they noted that PC Davarian was an officer with only three days of operational service at the time of this incident. The Panel found that PC Burnard should have taken a more active role himself in his response to the threat to Ms. A's welfare that he should or could have identified at that first stage given the inexperience of PC Davarian.
- The Panel also noted the evidence that showed that PC Burnard had not brought Ms. A's presence to the attention of the Police Inspector whom he was meeting with whilst PC Davarian was informing the duty sergeant and other response officer colleagues of the incident.
- For the second stage of the incident, the Panel found that PC Burnard did perform several actions that demonstrated his intention to protect Ms. A's welfare. This included his discussion with PC Davarian whilst they ascended the car park stairs in which he stated that he intended to engage Ms. A in dialogue to assist his information gathering process in accordance with the NDM.

- The Panel found that PC Burnard sought to engage with Ms. A during their 11 second interaction inside the car park in a controlled and supportive manner and sought to engage her through open questioning.
- For these reasons, the Panel found that PC Burnard had taken sufficient steps to protect Ms. A's welfare during this second stage of his response to this incident when considered against the very short span of time that he was able to engage with her for.
- However, having found that PC Burnard did not take sufficient steps during the first stage of his response, the Panel found this allegation **PROVEN**.

(iii) Draw Ms. A's presence on the wall to the attention of your colleagues

- The Panel were in receipt of evidence from PC Burnard and a number of other officers that PC Davarian had been tasked to inform the duty sergeant and response officers of Ms. A's presence on the car park ledge.
- Whilst the Panel questioned the appropriateness of PC Davarian being given this task given his operational inexperience, it was evident that Ms. A's presence on the car park ledge was brought to the attention of colleagues.
- On that basis, the Panel found this allegation **NOT PROVEN**.

(iv) Seek prompt assistance from colleagues

- For the reasons provided above at para (iii), the Panel found that PC Burnard did bring the attention of Ms. A to the attention of his colleagues.

- Whilst the Panel noted that PC Burnard failed to take any action himself, they found that PC Burnard had tasked PC Burnard to seek prompt assistance from his colleagues.
- On this basis, the Panel found this allegation **NOT PROVEN**.

(v) Act in accordance with the NDM and/or your training

- In their determination of finding against this allegation, the Panel again considered the evidence in two stages as described in paragraph (ii) above.
- For the first stage, the Panel found that PC Burnard failed to gather information to inform his assessment of risk and that he therefore failed to correctly act in compliance with the NDM.
- For the second stage of the incident, the Panel found that PC Burnard demonstrated an awareness of the requirement to gather information in relation to Ms. A to assist in his assessment of risk.
- They also noted his actions during the 11 second interaction with Ms. A in the car park which they found to be an appropriate demonstration of his intention and the actions taken to follow the NDM.
- The Panel were not provided with any evidence that showed the specific content and date of training inputs that PC Burnard has received of relevance to this case.
- They were provided with a copy of an undated training record dealing with Hostage & Crisis Negotiation and Suicide Intervention (pages 433-484 of the agreed bundle) that PC Burnard stated in his evidence he had been briefed on an unknown date during his training. The Panel were provided with the contents

of the APP relevant to this case in the agreed bundle which were carefully considered.

- Having considered the training and APP materials provided in the agreed bundle, the Panel found that PC Burnard did act in accordance with them during the second stage of his response to the incident.
- However, having found that PC Burnard did not act in accordance with the NDM during the first stage of his response, the Panel found this allegation **PROVEN**.

(vi) Alleged Breach – Discreditable Conduct

- The Panel found proven the allegations that PC Burnard did not conduct a meaningful risk assessment of Ms. A, that he had not taken sufficient steps to protect her welfare and that he had not acted in accordance with the NDM.
- The Panel concluded that a reasonable member of the public would be justifiably concerned that he had failed to take any or sufficient steps to protect a member of the public from an obvious risk of harm.
- The Panel found that PC Burnard's proven conduct would bring discredit upon the police service and undermine public confidence in it.
- On this basis, the Panel found this allegation **PROVEN**.

PC Davarian – Alleged Breach: Honesty & Integrity

- The A/A alleged that PC Davarian intentionally lied when he stated (to IOPC investigators) that before he entered the police station, he could only see the top half of Ms. A's body and that he thought she was leaning on a wall and not sitting on the car park ledge.

- The Panel noted the witness statement provided by PC Davarian to the IOPC on 18th March 2024 in which he describes his actions during this incident.
- In this statement PC Davarian stated that he could only see the top half of the body of the person we now know to be Ms. A when he observed her in the multi-storey car park.
- The Panel next considered the evidence provided by a number of police officers in the Charles Cross response briefing room on the night of the incident. The Panel noted that these officers all broadly describe how PC Davarian stated that the female he had seen was sat on the ledge of the car park with her legs over the side in the direction of the police station.
- The Panel noted the content of PC Davarian's Regulation 31 notice in which he stated that the discrepancy between the two accounts he provided was not arising from an intention to mislead or provide false information. He stated instead that this discrepancy arose from the significant psychological impact that the incident had upon him.
- In the absence of any evidence presented on behalf of PC Davarian in support of this submission, the Panel found it more likely than not that the officer was being untruthful and therefore dishonest when he provided his witness statement to the IOPC in his description of Ms. A's location within the multi-storey car park.
- On this basis, the Panel found this allegation **PROVEN**.
- The Panel also carefully considered paragraph 4.27 of the Guidance in their assessment of PC Davarian's conduct. They noted the Guidance describes operational dishonesty as 'dishonesty in connection with a police operation'
- The Panel further noted paragraph 4.28 of the Guidance which states 'Impropriety involving corruption, deliberately misleading or compromising an

investigation.....is likely to be comparably serious to, and/or to involve, operational dishonesty’.

- Having considered paragraphs 4.27 and 4.28 of the Guidance, the Panel also found that the proven conduct of PC Davarian could be regarded as operational dishonesty. The Panel found this to be made out as they had found that PC Davarian had intentionally lied to the IOPC during what they regarded as a ‘policing operation’ and that he had deliberately misled that investigation.

Determination of Level of Breach

26. The Panel next considered its determination of the seriousness of the allegations found proven. In making this determination, the Panel gave regard to the College of Policing Guidance on Outcomes on Police Misconduct Proceedings to assist them in their assessment.
27. The Panel reminded itself that Regulation 2(1) of the 2020 Regulations defines misconduct as being ‘a breach of the standards of professional behaviour that is so serious as to justify disciplinary action’ whilst gross misconduct is defined as ‘a breach of the standards of professional behaviour that is so serious as to justify dismissal’.
28. The Panel further reminded itself that the purpose of the police misconduct regime is to: maintain public confidence in and the reputation of the police service; uphold high standards in policing and deter misconduct; and protect the public.

29. The Panel noted paragraph 4.1 of the Guidance which states that *'whether conduct would if proven, amount to misconduct or gross misconduct for the purposes of Regulation 14 of the Conduct Regulations, is also a question of degree (i.e., seriousness)'*.
30. The Panel were also mindful of Paragraph 4.3 of the Guidance which advises that an assessment of seriousness of the proven misconduct is by reference to:
- (i) the officer's culpability for the misconduct
 - (ii) the harm caused by the misconduct
 - (iii) the existence of any aggravating factors
 - (iv) the existence of any mitigating factors
31. The Panel were also assisted by *Fuglers LLP v Solicitors Regulation Authority* [2014] EWHC 179 (Admin), paragraph 29: *"In assessing seriousness the most important factors will be (1) the culpability for the misconduct in question and (2) the harm caused by the misconduct. Such harm is not measured wholly, or even primarily, by financial loss caused to any individual or entity. A factor of the greatest importance is the impact of the misconduct upon the standing and reputation of the profession as a whole. Moreover the seriousness of the misconduct may lie in the risk of harm to which the misconduct gives rise, whether or not as things turn out the risk eventuates. The assessment of seriousness will also be informed by (3) aggravating factors (eg, previous disciplinary matters) and (4) mitigating factors (eg, admissions at an early stage or making good any loss)"*.

32. The panel described their assessed level of seriousness for the proven conduct using the scalar of low, medium or high.
33. In making this assessment of seriousness, the panel have noted that the A/A have not made any allegation that either officer's conduct had any causative effect upon the outcome of the incident for Ms. A.

Culpability

34. The Panel first turned to its assessment of culpability for the proven conduct and were assisted by paragraphs 4.9-4.16 of the Guidance.
35. Paragraph 4.11 of the Guidance states that where harm is unintentional, culpability will be greater if the officers could reasonably have foreseen the risk of harm.
36. The Panel found that PC Burnard's proven conduct was not intentional, deliberate, targeted or planned. They did however find that in the absence of that intent, the officer could or should have reasonably foreseen the risk of harm to Ms. A.
37. For these reasons, the Panel found that PC Burnard's level of culpability for his proven conduct was **medium**.

38. For PC Davarian, the Panel noted the content of the officer's Regulation 31 dated 23rd February 2026 in which he states that he did not intentionally provide false or misleading evidence during his interview with the IOPC. In this document, the officer states that any discrepancy between that account and that provided by colleagues arises from the significant psychological impact that the incident had upon him and not from dishonesty. The officer states that his GP has documented his symptoms consistent with trauma related stress and that he asked the Panel to consider the medical evidence provided by his GP.
39. The Panel noted that the medical evidence referred to by the officer in his Regulation 31 notice has not been provided to the Panel in the agreed bundle.
40. Following enquiries with the A/A during the hearing, the Panel were provided with a letter sent by a General Practitioner dated 19th November 2024 that dealt with PC Davarian's health.
41. In this letter, the doctor states that she had been asked to provide a letter in support of PC Davarian being exempted from an ongoing investigation from his previous employment. It is reported that PC Davarian had reported low mood, anxiety, flash backs and poor sleep to the practice. The letter also states that PC Davarian has found the request to engage with the investigation had triggered a deterioration in his mental health, panic attacks, low mood, ongoing flashbacks and poor sleep.

42. The Panel determined that the contents of the letter did not provide evidence from an independent expert that supported the position advanced by PC Davarian in his Regulation 31 notice.
43. The Panel noted that the letter was provided by his medical practice following PC Davarian's request that he be made exempt from an ongoing investigation.
44. The Panel found that this letter did not therefore deal with the inconsistency the Panel found proven between the two accounts provided by PC Davarian, subject of the allegation made against him by the A/A.
45. The Panel had heard that PC Davarian had declined to engage in this misconduct process and part of this process is to provide the Panel with documentary evidence, expert or otherwise that he would rely upon in support of his case.
46. In the absence of any medical evidence in support of the point raised in his Regulation 31 notice, the Panel found that the PC Davarian's proven conduct was intentional and deliberate and that his level of culpability was therefore **high**.

Harm

47. The Panel next turned to its assessment of the harm caused by the officers in this incident. They were assisted by paragraphs 4.63-4.64 of the Guidance.

48. The Panel reminded itself of the submission made by the A/A that it did not and does not, allege that the outcome of this incident would have been any different if the officers had acted differently.
49. For PC Burnard, the Panel found that officer's proven conduct was likely to harm public confidence in policing if the circumstances were known to the public. They further determined that there were no specific matters of local or national interest or concern that were of relevance to this case against which its assessment of harm would be aggravated.
50. On this basis, the Panel determined that the level of harm arising from PC Burnard's proven conduct was **medium**.
51. For PC Davarian, the Panel found that his proven operational dishonesty would harm public confidence in policing. Local and national concern around the integrity of the police service was carefully considered by the Panel when assessing the harm arising from PC Davarian's proven conduct. The Panel found that our communities should have absolute trust and confidence in the honesty and integrity of all police officers.
52. On this basis, the Panel determined that the level of harm arising from PC Davarian's proven conduct was **high**.

Starting Point for Assessment of Seriousness

53. For PC Burnard, the Panel found that the starting point for a combined assessment of seriousness arising from culpability and harm was **medium**.
54. For PC Davarian, the Panel found that the starting point for a combined assessment of seriousness arising from culpability and harm was **high**.

Aggravating Factors

55. The Panel were assisted by paragraphs 4.75-4.78 of the Guidance in their assessment of aggravating factors in this case. The Guidance states that when certain factors are engaged, the level of culpability or harm may increase.
56. For PC Burnard, the Panel found that his proven failure to follow the NDM during the early stages of this incident was a significant deviation from an order, force policy or national Guidance and this was identified as an aggravating factor.
57. For PC Davarian, the Panel found that having determined that operational dishonesty was made out in this case, this was a significant aggravating factor such is the scale and depth of national concern regarding the honesty and integrity of police officers.

Mitigating Factors

58. The Panel were assisted by paragraphs 4.79-4.82 of the Guidance in its assessment of mitigating factors in this case. The Guidance states that mitigating factors are those tending to reduce the seriousness of misconduct. The Guidance states that 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.

59. For PC Burnard, the Panel found that the proven conduct was confined to a single episode of brief duration which they identified as a mitigating factor.

60. The Panel found that that the officer was new in his role as a tutor constable and that his exposure to this role with PC Davarian was his first experience of this duty. They noted this as a further mitigating factor in their assessment of seriousness.

61. For PC Davarian, whilst the Panel noted that the proven conduct originated from a single episode, i.e. the incident to which this hearing relates, they found that his actions were not for a brief duration. They found that there was a time delay of approximately six months between the incident and the officer provided his statement to the IOPC. As such, the Panel did not recognize this as a mitigating factor.

Decision on Levels of Breach

62. For PC Burnard, having identified the aggravating factors and mitigating factors, the Panel decided that its starting assessment of seriousness remained at **medium**.

63. The Panel found that the proven breaches by PC Burnard of the Standards of Professional Behaviour to be of a level of seriousness that dismissal could not be justified and was therefore **to be treated as misconduct and NOT gross misconduct**.

64. For PC Davarian, having identified the aggravating factors and mitigating factors, the Panel decided that its starting assessment of seriousness remained **high**.

65. The Panel found that the proven breach by PC Davarian must amount to misconduct so serious that dismissal could be justified and was therefore **to be treated as gross misconduct**.

Determination of Outcome

66. The Panel have presented their assessment of seriousness against the four elements described in the Guidance.
67. This assessment was carried out in accordance with paragraphs 4.1- 4.82 of that Guidance to assist the Panel in determining whether the proven conduct amounted to misconduct or gross misconduct (the level of breach).
68. Following its decision on the level of breach, the Panel was provided with submissions from parties against those same factors for the purpose of assisting them in determining the outcome in this hearing. Having heard those representations, the Panel then considered the appropriate outcome.
69. In determining the appropriate disciplinary action in this case, the Panel has once again had regard to the Guidance on Outcomes in Police Misconduct Proceedings.
70. The Panel was also mindful of the principles set out in R (Chief Constable of Greater Manchester Police) v Police Misconduct Panel & Roscoe (HHJ Pelling QC sitting as a High Court Judge, November 2018) in which the Administrative Court emphasises the importance of following the structured 3 stage approach as set out in the Guidance. The Panel adopted this approach.

PC Davarian

71. The Panel firstly considered PC Davarian and when considering the outcome for this hearing and they took account of the submissions provided by the Appropriate Authority.

72. The Panel noted that PC Davarian has not engaged in this hearing and has not provided the Panel with submissions relating to an outcome in this case.

Culpability

73. The Panel had already determined that PC Davarian had a high level of culpability for his proven actions. The panel did not deviate from this assessment following submissions from the A/A.

Harm

74. The Panel noted the “types” of harm categorised at Para 4.64 of the Guidance and identified that of ‘reputational harm’ as being relevant to this case. They found that the reputational harm to Devon and Cornwall Police and wider policing was engaged. They found that this case could not be considered in isolation from an increasing public awareness of disciplinary issues within the police service.

75. As a consequence, the Panel found that the reputational harm to any police force within which a serving officer is found to have breached the Standards of Professional Behaviour for dishonesty and integrity will inevitably be serious and damaging to public trust and confidence in policing.

76. As was stated in the case of *Fuglers LLP V SRA* [2014] EWHC 179 (Admin) at [29] a factor of the greatest importance is the impact of the misconduct upon the standing and reputation of the profession as a whole. Moreover, the seriousness of the misconduct may lie in the risk of harm to which the misconduct gives rise, whether or not as things turn out, the risk eventuates.
77. From the observations above the Panel are clear that the actions of PC Davarian caused or may cause a risk of serious and enduring harm to the reputation of Devon and Cornwall Police and the wider police service.

Aggravating factors

78. The Panel had already found that PC Davarian's operational dishonesty was made out in this case. They found this was a significant aggravating factor such is the scale and depth of national concern regarding the honesty and integrity of police officers.
79. The Panel received a submission from the A/A that paragraph 4.26 of the Guidance was engaged in this case to assist our assessment of the fundamental importance of honesty and integrity for any police officer.
80. The A/A submitted that the outcome starting point for an officer found to have behaved operationally dishonestly was dismissal. The A/A informed the panel that there were no exceptional circumstances for PC Davarian that would justify deviation from this outcome.

Mitigating factors

81. The Panel had already found that the proven conduct of PC Davarian was confined to a single episode. They did however find that it was not for a brief duration as there was a time delay of approximately six months between the incident and the officer providing his statement to the IOPC.

82. The Panel considered PC Davarian's very short length of police experience as a potential mitigating factor. However, following Panel deliberations, it was determined that the expectation of an officer's trust and honesty was an absolute expectation the public should hold of any police officer regardless of their length of service. For the purposes of transparency this potential mitigating factor and the Panel's discussion is recorded in this report.

83. Following submissions from the A/A and its review of the assessment of the seriousness of PC Davarian's proven conduct, the Panel found no cause to deviate from their starting assessment that it remained **high**.

PC Burnard

Culpability

84. The Panel found that the officer's proven conduct was not intentional, deliberate, targeted or planned. They did, however, find that in the absence of that intent, the officer could or should have reasonably foreseen the risk of serious harm to Ms. A.

85. The Panel received a submission from the A/A that the PC Burnard's proven conduct was of the highest level of misconduct and that the Panel should regard it as being just below that of gross misconduct.
86. The A/A directed the Panel to consider Regulation 42 (3) to assist them in their determination of outcome. The A/A submitted that aim of the misconduct procedure is to maintain public confidence.
87. The A/A submitted that PC Burnard's culpability in this case was increased because he should reasonably have foreseen the risk of harm to Ms. A. The A/A submitted that the Panel should also consider the 'absence of professional interest' shown by PC Burnard in our assessment of culpability.
88. The A/A submitted to the Panel that PC Burnard should receive a final written warning for a duration of 5 years to reflect the officer's culpability.

Harm

89. The Panel had already found that the proven conduct of PC Burnard would harm public confidence if the circumstances were known to the public.
90. However, the Panel considered that had the public been made fully aware of the full circumstances of the case they would have given an appropriate perspective on this matter that would have assisted in determining an appropriate and proportionate outcome.

Aggravating features

91. Following submissions from the A/A, the Panel revisited their assessment of the potential aggravating factors in this case.
92. They had previously identified PC Burnard's failure to follow the NDM during the early stages of this incident as a significant deviation from an order, force policy or national Guidance.
93. The Panel found that there was an aspect of reputational harm in this matter although there is no evidence of such harm being caused. The Panel considered the potential for reputational harm to the police service generally and to Devon and Cornwall police specifically. The Panel found that the actions, or in this case, the proven inactions of the officer should be considered within the context of increased public scrutiny of the police as a factor that potentially could cause reputational harm to the police service.

Mitigating features

94. The Panel next revisited their assessment of mitigating factors for PC Burnard. For clarity, this assessment related to matters of mitigating circumstance of the case and did not include personal mitigation at this stage of Panel consideration.
95. The Panel received a submission in mitigation from Counsel for PC Burnard. She stated that this was the officer's first appearance at a misconduct hearing.

She stated that the incident was for a brief duration and that the Panel would be provided with the officer's very positive service record and training history.

96. Counsel for the officer further submitted that she accepted the position advanced by the A/A that PC Burnard's proven conduct was at the upper end of the spectrum of misconduct.
97. Counsel for the officer submitted that PC Burnard should receive a written warning in reflection of the Panel's earlier finding that the seriousness of the proven conduct was at level of medium.
98. It was further advanced that a written warning was the appropriate outcome as the proven conduct was for a limited period and in reflection of the officer's good service between the date of the incident and this hearing.
99. Following submissions and the Panel's review of their assessment of the seriousness of PC Burnard's proven conduct, the Panel found no cause to deviate from their assessment that it remained **medium**.

Personal mitigation

100. Having considered submissions from both parties on outcome, the Panel then went on to consider the personal mitigation submitted on behalf of PC Burnard.
101. The Panel were assisted by paragraphs 6.1-6.9 of the Guidance in its assessment of personal mitigation.

102. Given the purpose of police misconduct proceedings, the Panel kept in mind the fact that personal mitigation will carry limited weight and less than it might do in a different context [as explained by Holroyde J as he then was in *The Queen (on the application of Williams) v Police Appeals Tribunal* [2016] EWHC 2708 (QB)].
103. The Panel received submissions from Counsel for the officer in which it was stated that the incident was of brief duration and was unintentional. The Panel noted that they had already considered this point in their assessment of seriousness.
104. Counsel for the officer referred the Panel to paragraph 4.82 of the Guidance which deals with the passage of time between proven conduct and the hearing and invited us to consider his conduct during this period.
105. The Panel were aware of the limited weight that ordinarily would be attached to such mitigation however, the Panel was provided with the officer's record of service and character references that deal with his conduct during this period.
106. The Panel found that the officer has performed his duties to a high standard during the period between the proven conduct and the hearing. They noted a certificate of recognition that PC Burnard had received on 13th March 2024 for his actions in successfully supporting and managing the risks arising from a member of the public with mental health issues who was threatening to jump from a bridge onto the A38.

107. Counsel for the officer directed the Panel to consider paragraph 6.7 of the Guidance which states that there is a public interest in retaining officers who have demonstrated or developed particular skills and experience. The Panel have considered the training record of the officer and whilst they note the extensive record of training he has received, they do not find that those skills are so specialist that this section of the Guidance is engaged.

108. Counsel for the officer invited the Panel to impose a sanction of a written warning which she felt appropriate given the Panels finding that their assessment of seriousness was at the medium level.

109. With respect to the purpose of imposing disciplinary action in police misconduct proceedings the Panel reminded itself of the following;

(i) The primary purpose is to protect the public confidence in and the reputation of policing;

(ii) The second purpose is the declaratory purpose of maintaining high professional standards by demonstrating to other officers that misconduct of a certain kind and/or a certain seriousness will be dealt with by disciplinary action of a certain severity; and

(iii) The third purpose is to protect the public and/or officers and staff by preventing the officer from committing similar misconduct again by excluding them from the police service.

110. In *Redgrave v Commissioner of Police of the Metropolis* [2003] 1 WLR 1136 Simon Brown LJ (as he then was) at [33] approved the following dictum of Lord Diplock in *Ziderman v General Dental Council* [1976] 2 All ER 334 at p.336: 72

“The purpose of disciplinary proceedings against a person convicted of crime is not to punish him a second time for the same offence but to protect the public who come to him as patients and to maintain the high standards and good reputation of an honourable profession”. (emphasis added).

111. In *R (Green) v Police Complaints Authority* [2004] UKHL 6; [2004] 1 WLR 725, Lord Carswell stated at [78]:

“Public confidence in the police is a factor of great importance in the maintenance of law and order in the manner which we regard as appropriate in our polity. If citizens feel that improper behaviour on the part of police officers is left unchecked and they are not held accountable for it in a suitable manner, that confidence will be eroded.”

112. Lord Bingham (when Master of the Rolls) had previously made the same point in relation to the solicitors' profession in *Bolton v Law Society* [1994] 1 WLR.

113. In explaining the apparent harshness of sanctions imposed by the Solicitors Disciplinary Tribunal he identified the purpose of such sanctions and said at p.518H (emphasis added):

“The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation

and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re- investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires.”

114. In *Salter v Chief Constable of Dorset Police* [2012] EWCA Civ 2012, Maurice Kay LJ found that it was appropriate to draw an analogy between police officers and legal professionals at [21] (emphasis added):

“Although police officers do not have a fiduciary client relationship with individual members of the public or the public at large, they do carry out vital public functions in which it is imperative that the public have confidence in them. It is also obvious that the operational dishonesty or impropriety of a single officer tarnishes the reputation of his Force and undermines public confidence in it. In these respects, the similarities between solicitors and police officers justify the analogy provided that, ultimately, the decision-maker, be it the PAT or a judge of the Administrative Court, appreciates at all times that the index case falls to be assessed in the context of policing.”

115. In *R (Coke- Wallis) V Institute of Chartered Accountants* [2011] UKSC 1 at [60] Lord Collins reaffirmed the purpose of professional disciplinary proceedings to be: (...to protect the public, to maintain public confidence in the integrity of the profession and to uphold proper standards of behaviour: see *Bolton V Law Society* [1994] 1 WLR 512, 518 per Sir Thomas Bingham MR; *Gupta V General Medical Council* [2002] 1 WLR 1691, para 21, per Lord Roger of Earlsferry.

116. The primary purpose of imposing disciplinary sanctions in police misconduct proceedings is to protect the public confidence in and the reputation of policing. The second purpose is the declaratory purpose of maintaining high professional standard by demonstrating to other officers that misconduct of a certain kind and/or a certain seriousness will be dealt with by disciplinary action of a certain severity. The maintenance of public confidence and so that the public understand that such conduct will be treated with a severe outcome. The way to restore public confidence is to make sure that due process is followed and that an appropriately severe outcome follows.

117. In *Bolton*, Sir Thomas Bingham MR explained why personal mitigation carried less weight in the professional disciplinary context than the criminal context at p.519B-D

“Because orders made by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences imposed in criminal cases. It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes from his

professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often, he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness.”

118. In *Salter* in the Court of Appeal, Maurice Kay LJ said at [23]:

“As to personal mitigation, just as an unexpectedly errant solicitor can usually refer to an unblemished past and the esteem of his colleagues, so will a police officer often be able so to do. However, because of the importance of public confidence, the potential of such mitigation is necessarily limited.”

119. In *R (Williams) v PAT* [2016] EWHC 2708 (Admin), Holroyde J confirmed that the approach to mitigation in *Salter* was not restricted to cases of honesty and integrity. Holroyde J also gave the following general Guidance on how the question of mitigation should be approached in police misconduct cases:

“In my judgment the importance of maintaining public confidence in and respect for the police service is constant, regardless of the nature of the gross

misconduct under consideration. What may vary will be the extent to which the particular gross misconduct threatens the preservation of such confidence and respect. The more it does so, the less weight can be given to personal mitigation. Gross misconduct involving dishonesty or lack of integrity will by its very nature be a serious threat: save perhaps in wholly exceptional circumstances, the public could have no confidence in a police force which allowed a convicted fraudster to continue in service. Gross misconduct involving a lack of integrity will often also be a serious threat. But other forms of gross misconduct may also pose a serious threat, and breach of any of the Standards may be capable of causing great harm to the public's confidence in and respect for the police. This does not mean, of course, that personal mitigation is to be ignored. Nothing in the Salter principle suggests it must be ignored. On the contrary, it must always be taken into account..."

120. The Panel were mindful of paragraphs 110-119 of this report in its assessment of the weight that it should provide to personal mitigation and the purpose of the police misconduct procedure. They reminded themselves that they must take account of the officer's personal mitigation, but that the weight to be accorded to that mitigation:

- (i) is less than it would be in a criminal trial; and
- (ii) is dependent upon the extent to which the officer's misconduct threatens the public confidence.

Outcome Decision: PC Davarian

121. The Panel noted that as PC Davarian was no longer a serving police officer, the available outcomes in this matter differed from those available had he continued to serve as a police officer.
122. In making this decision on outcome, the Panel considered Regulation 62 of the Police (Conduct) Regulations 2020 and Paragraph 3.30-3.33 of the Guidance.
123. The Panel had found that the proven breach by PC Davarian must amount to misconduct so serious that dismissal could be justified and was therefore to be treated as gross misconduct.
124. The Panel reminded itself that where it found that the conduct of a former officer amounted to gross misconduct, there are only two potential outcomes:
- (i) No disciplinary action; or
 - (ii) Disciplinary action.
125. Where the Panel decide that disciplinary action should be imposed, it reminded itself that the only available outcome in this hearing was that the officer would have been dismissed if they had still been a serving police officer.
126. In reaching its decision regarding disciplinary outcome, the Panel gave due consideration to all the evidence and information put before it and considered the submissions made by the A/A.

127. Having found operational dishonesty proven, the Panel carefully considered paragraphs 5.1 – 5.5 of the Guidance. They noted that where such a finding has been made it will be only in exceptional circumstance that dismissal without notice will not be justified. The panel did not find proven any such exceptional circumstance that gave it cause to deviate from the outcome being dismissal without notice (if the officer had still been serving).
128. The Panel found that the public would not tolerate a police service that continued to accommodate officers who have behaved as this officer did. They found that this breach was so serious that the public would expect nothing less than dismissal without notice.
129. The Panel determined that any lesser outcome would only serve to further discredit the credibility of the police service and not deter other officers from acting in similar way and would undermine the public trust and confidence in the Police.
130. Having completed their assessment of the evidence presented in this hearing, the Panel determined that PC Davarian would have been **dismissed from the police service without notice if he had still been a serving officer.**

Outcome Decision: PC Burnard

131. Having carefully considered its assessment of seriousness and the submissions from both parties, it was the Panel's determination that the proven conduct of PC Burnard was at the higher level of misconduct.

132. The Panel then considered the range of available outcomes for its finding of proven misconduct which were:

- (i) written warning or
- (ii) final written warning

133. The Panel considered the less serious sanction first. The Panel concluded that a written warning for PC Burnard would not be appropriate given the level of seriousness determined in this case and the need to maintain public confidence, uphold high standards, deter misconduct, and to protect the public

134. The Panel decided that PC Burnard should receive a **final written warning** for the proven conduct found in this case.

135. In accordance with paragraph 3.16 of the Guidance, the Panel has considered the duration of the final written warning and has taken into account:

- the seriousness of the conduct
- the circumstances that gave rise to the misconduct
- the public interest
- the mitigation offered by the officer, including previous record of conduct.

136. The Panel determined that the proven conduct was at the higher end of the spectrum of seriousness for misconduct. They noted the potential public interest in this case and the specific circumstances that gave rise to this incident, namely the officers' failure to assess risk, protect Ms. A's welfare, his deviation from force policy and his admitted absence of sufficient 'professional curiosity'

137. For these reasons and having balanced these findings against the consideration factors provided in paragraph 3.16 of the Guidance, the Panel decided that the final written warning for PC Burnard would be for a period of **three years**.

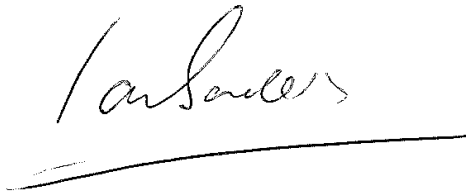
Barred list

138. For PC Davarian, the Chair has considered the relevant provision under the Police Barred List and Advisory List Regulations 2017 (“the 2017 Regulations”) and is satisfied that a report containing details of this case (in accordance with Regulation 3 of the 2017 Regulations) should be sent to the College of Policing within 5 working days.

Right of Appeal

139. The officers will be notified that they have a right of appeal to the Police Appeals Tribunal.

140. The A/A will provide a notice to the officers as to the procedure to be followed should either wish to submit an appeal.

A handwritten signature in black ink, appearing to read 'Ian Saunders', is written above a solid horizontal line.

Ian Saunders

Assistant Chief Officer

Chair of Misconduct Hearings

16th March 2026.