IN THE MATTER OF:

THE POLICE (CONDUCT) REGULATIONS 2020

PANEL'S DECISION

OFFICERS' APPLICATIONS OF NO CASE TO ANSWER

The Officers (with the name of their counsel in brackets):

PC 5823 CARLA LAMBLE (Mr Aldred)

PC 6921 CHRISTOPHER HARWOOD (Mr Aldred)

PC 7608 NATHAN COOPER (Mr Baumber)

Former PC 2961 ANDREW DILLON (Mr Baumber)

Former PC 1274 ANDREW BURELL (Mr King)

Former PC 7017 LUKE WONNACOTT (Mr King)

Former DC 6999 PETER RILEY (Mr Rush)

Former PC LEON 6863 HANNAFORD (Mr Rush)

Former PS 1093 VANESSA TRISCOTT (Ms Stevens)

Former PC 2829 OLIVER HALL-GREEN (Ms Stevens)

Former PC 7184 MARTEL STEVENSON (Unrepresented)

1. At the conclusion of the Appropriate Authority's case, applications of no case to answer were made on behalf of all represented Officers. Former PC Stevenson, although unrepresented and not actively engaged in the proceedings, relied upon the submissions advanced by the other Officers.

2. The Panel received detailed written skeleton arguments and oral submissions from all parties. The Panel is grateful to all counsel for the care and quality of those submissions.

3. The Panel has also been assisted by the legal advice of Mr Derek Marshall, our Independent Legally Qualified Adviser, which has been carefully considered in reaching this decision. His legal advice is provided at Annex A of this notice.

4. Whilst noting that there are a number of former Officers engaged in this hearing, for convenience, the Panel use the term 'Officer' in this decision.

5. The Panel carefully considered the submissions advanced by the Appropriate Authority and by Defence Counsel on behalf of each officer.

6. The Panel was careful to assess the evidence said to relate to each officer individually together with the specific submissions made on their behalf, before reaching its conclusions.

7. The relevant legal principles in this application are not in dispute. The Panel has approached these applications in accordance with *R v Galbraith* and the guidance provided in *R v Misconduct Panel ex parte Neale*.

8. The Panel has reminded itself throughout that this is not the stage at which findings of fact are made. Equally, this is not the stage at which the Panel determines whether it ultimately accepts or rejects the explanations advanced by the Officers.

9. The question for the Panel is a narrower one. Taking the Appropriate

Authority's evidence at its highest, the Panel must determine whether there is evidence upon which a reasonable and properly directed Panel could find the allegations proved.

10. The Panel recognised that there were a number of minor variations in the wording and particulars of the allegations faced by the individual Officers. However, having considered the allegations in their entirety, the Panel was satisfied that those variations amounted to background or contextual factors. They did not alter the fundamental nature of the case advanced against each Officer.

11. The central allegations against the Officers were the same, namely that:

    (i) They used the macro called “Daily (Version1)" in order to give the false impression that they were working on their computers when they were not; and

    (ii) They knew that they should not be using that macro to give that false impression.

12. The Panel therefore approached its assessment that, notwithstanding the minor differences in presentation and factual context, the core allegations against all officers were materially the same.

13. The Panel accepts that the Appropriate Authority has presented evidence capable of establishing that the macro existed. It also accepts that it presented evidence that the macro was created by former PC Dillon and that it was circulated amongst a number of Officers, a number of whom used it at different times.

14. However, the Panel found that proof of the existence of the macro and its subsequent circulation or its use was not sufficient in itself to establish the allegations that have been brought by the Appropriate Authority.

15. These allegations require evidence capable of proving why the macro was used and what the relevant Officers knew or believed about its use at the material time.

16. The Appropriate Authority's case is founded upon the assertion that when the Officers were using the macro, they were not working and that they used the macro in order to create the false impression that they were.

17. The Panel has been unable to identify any evidence presented by the Appropriate Authority which establishes what any Officer was doing, or not doing, at any particular time when the macro was operating.

18. The evidence presented in this hearing does not identify specific periods during which the Officers were allegedly undertaking no work. Nor does it establish what duties, if any, were being neglected during those periods.

19. There is no evidence before the Panel that any Officer failed to respond to a tasking, answer operational communications, complete allocated work, perform the FIO role as expected, or make themselves available for operational duties when required.

20. The absence of evidence showing what the Officers were actually doing whilst the macro was operating is a significant evidential deficiency in circumstances where the allegation expressly alleges that they were not working or giving an impression that they were not working.

21. The Appropriate Authority submitted that the Panel could infer dishonest intent by the Officer’s from the use of the macro itself and the way in which it operated.

22. The Panel has very carefully considered that submission. However, the Panel is satisfied that the evidence relied upon by the Appropriate Authority remains insufficient for any reasonable Panel to prove this essential factual foundation of the allegations.

23. In particular, the Appropriate Authority has not presented sufficient evidence to show that a Microsoft Teams Green Light status of "Available" meant an Officer was actively working on a computer. The evidence does not establish that the status indicated anything more than that the Officer was available, contactable, and ready to respond to operational taskings.

24. Nor did the Appropriate Authority present evidence capable of establishing that any Officer had used the macro with the intention of creating such a false impression.

25. The Panel accepts that there may be circumstances in which dishonest intent could properly be inferred from surrounding evidence presented in this hearing. However, the evidence relied upon by the Appropriate Authority is, in the Panel's judgment, too vague, tenuous and speculative to support such an inference.

26. The Panel reaches the same conclusion in relation to the allegation made by the Appropriate Authority that the Officers knew they should not be using the macro in the manner alleged.

27. The Appropriate Authority relied upon matters such as a lack of disclosure to supervisors and the absence of an obvious operational need for the macro to support their case. However, the Panel found that those matters do not provide evidence capable of proving that individual Officers knew they were using the macro dishonestly. Nor did it provide evidence that they used it to create a false impression that they were working or knew that they should not be using it for the purpose alleged.

28. The Panel reminds itself that suspicion or a belief, no matter how strong, is not evidence.

29. The Panel further reminds itself that it must determine these applications on the evidence that has been presented by the Appropriate Authority. It

should not be determined on conjecture, assumption or the possibility that further evidence may emerge at a later stage.

30. Taking the Appropriate Authority's case at its highest, the Panel has concluded that the evidence provided to it does not establish the essential elements of the allegations and is incapable of doing so.

31. This is therefore a case that falls within the first limb of *Galbraith*. The Panel finds that there is no evidence, or no evidence capable of proving that the Officers used the macro in order to give the false impression that they were working on their computers when they were not. There is also no evidence capable of proving that they knew they should not be using the macro for that purpose.

32. Therefore, the allegations against PC Carla Lamble, PC Christopher Harwood, PC Nathan Cooper, Former PC Andrew Dillon, Former PC Andrew Burrell, Former PC Luke Wonnacott, Former DC Peter Riley, Former PC Leon Hannaford, Former PS Vanessa Triscott, Former PC Oliver Hall-Green and Former PC Martel Stevenson are dismissed.

33. Finally, the Panel wishes to record its disappointment that a significant proportion of this hearing, the first six days, was occupied by issues arising from the late service of evidence that could and should reasonably have been available at an earlier stage.

34. The Panel remained conscious of the impact that the resulting delays arising from legal arguments have had upon the Officers involved, all of whom have been required to endure an extended period of uncertainty.

35. These were matters of considerable concern to the Panel.

36. These proceedings are now concluded.