IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020 (AS AMENDED BY THE POLICE (CONDUCT) (AMENDMENT) REGULATIONS 2024)

CONCERNING

SERGEANT 269 DEAN NOCIVELLI
GWENT POLICE

Case Reference Number	CM/94/23
Date of Hearing	11th December 2025
Location	Vantage Point House, Cwmbran NP44 7HF
Presiding Officer (Panel Chair) **Independent Panel Member** **Independent Panel Member**	Mr Ian Arundale QPM Mr Adrian Roberts-Walsh Mrs Ruth Bourne
Officer(s) Subject to Hearing	Sergeant 269 Dean Nocivelli
Alleged Misconduct	Assault/Domestic Abuse

Preliminary Matters

1) A prehearing case conference was held in relation to this matter on the 6th May 2025. Prior to this formal hearing (11/12/25) Mr Ian Arundale was appointed as the Chair due to the previous incumbent recusing himself on legal grounds.

2) The Appropriate Authority (AA) had requested special measures for Person A, i.e. that she give evidence via a remote video link and that her identity be anonymised. No objection was made by the defence, and the application was supported by witness statements from Person A explaining the reasons for the application. The application

was granted. The measures were later amended to enable her evidence to be given from behind a screen due to persistent technical issues.

3) The AA had objected to a proposal from the defence to ask questions of Person A concerning an incident which post-dated the index event. The application had been addressed in a written pre-hearing submission from the defence. The application was granted in the interests of justice, as potentially relevant evidence might emerge.

4) At the prehearing, the attendance of [redacted] and [redacted] had been directed. The AA queried whether they needed to be called to give live evidence. It was determined that they should remain as attending witnesses, as the defence had specifically requested that they attend and it was possible that they may be able to assist the Panel with potentially relevant evidence.

5) The Panel noted that the witness [redacted] had become unavailable to attend the hearing for personal reasons. The Panel admitted her evidence as hearsay evidence but reminded itself that the absence of the witness would affect the weight which could be attached to that witness' evidence.

[redacted]

The Hearing

7) The misconduct hearing for Police Sergeant 269 Dean Nocivelli was held in public at Vantage Point House, Ty Coch Way, Cwmbran between Thursday 11th December and Tuesday 15th December 2025.

8) The Appropriate Authority (AA) was represented by Mrs Julia Pollard (Solicitor) and Mr Peter Tahari (Counsel). The officer was represented by Mr Julian King (Counsel). Also present was the officer, his Police Federation representative PS Matt O'Brien, the Investigating Officer DC Charlotte Morris and the Misconduct Officer DS Kay Gladwin.

9) It is the panel's role to:

a. ascertain the facts, based on what is admitted by the officer and/or proven on the balance of probabilities;
b. determine, on the basis of those facts, whether the officer has breached the Standards of Professional Behaviour as alleged;
c. if so, determine whether any such breaches constitute misconduct or gross misconduct, or neither;
d. decide what the outcome should be.

10) These proceedings are brought under the **Police (Conduct) Regulations 2020** (**'PCR 2020**') As amended.

11) The core purpose of professional regulatory proceedings, including police misconduct proceedings, is *"**to protect the public … and to maintain*** **[profession's]** ***the high standards and good reputation"*** (*Redgrave v Commissioner of Police of the Metropolis* [2003] EWCA Civ 4 38).

12) Overall, the purpose of these proceedings is;

a. to protect public confidence and the reputation of the police service
b. to maintain high professional standards by demonstrating that misconduct of a certain kind/seriousness warrants a commensurate outcome and will not be tolerated
c. to protect the public and/or officers and staff from similar misconduct by determining an appropriate sanction.

13) It is for the Chair to determine the procedure of these proceedings, in accordance with the **PCR 2020** (**reg 61(1) PCR 2020**) and the principles of natural justice and fairness (**Home Office Guidance on police officer misconduct, unsatisfactory performance and attendance management procedures 2020** (**'HOG**'), 11.107).

Approach to be Adopted

14) We must first review the facts of the case and determine whether they are established. The standard of proof we applied is the civil standard of the 'balance of probabilities' (**reg 41(6) PCR 2020**).

    a. If the facts are satisfied and we consider them to be a breach of the Standards of Professional Behaviour, then we must consider whether, on the balance of probabilities, the officer's admitted or proven conduct amounts to misconduct, gross misconduct or neither (**reg 61(15)-(16) PCR 2020**). *Per* **reg 2 PCR 2020**, "***misconduct means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action gross misconduct means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal****."*

15) The Appropriate Authority brings the case against PS Nocivelli and the burden of proving the allegations wholly rests with the Appropriate Authority. The standard of proof in misconduct proceedings is the civil standard of the balance of probabilities. There is no sliding scale, and the standard does not vary according to the seriousness of the allegations or likely consequences for the officer. The test is the simple and unvarying balance of probabilities and in the case of R (IPCC) v. AC Hayman [2008] EWHC 2191 (Admin) Mr Justice Mitting commented upon the standard of proof in police disciplinary proceedings as follows:

> "***Of course in disciplinary proceedings the tribunal must look with the greatest care at accusations which potentially give rise to serious consequences. But in determining whether or not they occurred, it applies a single unvarying standard, the balance of probabilities. If satisfied it is more likely than not that the facts occurred, then it must find them proved and draw appropriate conclusions as to sanction.*****"**

16) At the outset, we are very conscious that an admission and/or finding of gross misconduct should not necessarily or automatically lead to dismissal. Any sanction must address the objectives outlined above and is not intended as a form of punishment.

17) We have been very careful not to apply too high a standard to guide our deliberations in this matter. We have therefore been careful to set a standard that reflects an adequate minimum standard of behaviour rather than an aspirational standard of excellence. Setting such a high standard would not be fair, or appropriate, for the purposes of our decision making in determining an outcome, as the officer's employment rests upon our decision.

18) We are guided by the College of Policing's Guidance on Outcomes in Police Misconduct Proceedings (2023) ('**Outcomes Guidance**') and by the Home Office Guidance, Conduct Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing (2020) ('the **HOG**').

Summary of the Case

19) On the 7th of April 2008, PS 269 Dean Nocivelli joined Gwent Police as a Constable.

20) On the 3rd October 2023, Gwent Police Professional Standards Department were informed of a disclosure by [redacted] known throughout these proceedings as "**Person A**", of alleged historical domestic abuse allegations committed by her former partner, PS 269 Dean Nocivelli.

21) Person A provided a statement documenting a series of alleged domestic incidents. Most of the incidents outlined happened before the officer's attestation as a Constable, however some occurred during PS Nocivelli's service as a Police Officer.

22) Person A was in a relationship with Dean Nocivelli between 2007-2010. They met while both studying at university. In 2009, Person A and PS Nocivelli took out a mortgage together and moved into a house in [redacted].

[redacted]

24) On or about the 19th June 2010, there was an incident after a night out in Newport, the social element of the evening concluded at the Walkabout public house in Newport. Person A had lost contact with the officer and was calling PS Nocivelli on his mobile phone to try and find out where he was. PS Nocivelli was drunk and they argued. They then got a taxi home together to their home address in [redacted]

25) The argument continued and when Person A and PS Nocivelli got home, they continued to argue [redacted] This argument took place within the home and moved into the main upstairs bedroom. During the heated argument, Person A alleges she was punched to the face by the officer. She fell hard onto the bed, and she heard the bed structure snap. Her next recollection was that she became aware that PS Nocivelli was crying and that she had her head over the bath. Blood was running into the bath and her face felt 'like it was broken'. Person A then consoled PS Nocivelli as he was crying. The officer was allegedly screaming, "***What have I done***?". The following day it is alleged that both parties concocted a story to conceal the true cause of the injuries.

26) Person A had injuries consisting of; a swollen left eye, a cut lip, swollen face, black upper lip (underneath) and bruising to the left side of her face and neck. On the 29th June 2010, PS Nocivelli accompanied Person A to the Royal Gwent Hospital Accident and Emergency department. Person A recalled that a nurse took her aside to ask her how she sustained the injuries. Person A denied it was PS Nocivelli that caused the injuries as she, "***did not want him to lose his job***". She told the nurse, "***He would never hurt me, he is a police officer*****".**

[redacted]

28) Person A ended the relationship with PS Nocivelli around November 2010, [redacted] Person A disclosed to colleagues, friends and current partners the nature of the June 2010 incident.

29) The Officer firmly denied the allegation maintaining that the injuries were accidently caused after heads clashed during the incident in the bedroom.

The Allegation (as outlined in the Regulation 30 notice)

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

On or about 19 June 2010, you assaulted your then partner Person A***, in a bedroom at your home address*** [redacted]***, by punching her to the face. The punch caused her to fall backwards onto the bed. As a result, she suffered bruising and swelling to her face.***
By your conduct as set out above: You failed to act with self-control and tolerance, treating members of the public with respect and courtesy. You also behaved in a manner that brings discredit on the police service or undermines public confidence in policing. Such conduct amounts to a breach of the following Standards of Professional Behaviour: Authority, respect and courtesy; and (Discreditable) Conduct.

Your behaviour set out above amounts to gross misconduct, in that it constitutes breach of the Standards of Professional Behaviour so serious that dismissal would be justified."

Agreed Facts

31) The following facts were agreed between the parties:

a. ***There is no evidence of the Officer having had a history of domestic violence involving any partner other than Person A.***

b. The only witnesses present at the time of the index incident were the Officer and Person A.

c. The index incident took place on or around 19 June 2010.

d. There is no physical or forensic evidence nor any means of independently corroborating the detail of the index incident.

e. The immediate context for the index incident was a verbal argument in the bedroom, after a night out that involved some drinking of alcohol, [redacted]

f. In the course of this argument, there was physical contact between the Officer and Person A's head, which led to Person A sustaining physical injury to her face and falling back onto the bed.

g. (The Officer says the physical contact arose accidentally in a clash of heads due to a struggle, caused by Person A trying to stop him leaving the room.)

h. Both the Officer and Person A subsequently told others about the index incident. There is no evidence to suggest that any of these witnesses are being dishonest about what they were told by the Officer or Person A.

[redacted]

b. [redacted] ***was the direct line supervisor for the Officer in 2010. She retired in 2022. She was approached by Professional Standards in this case and declined to provide a statement for use in misconduct proceedings.***

c. Enquires were made with a Gwent Police Information and Records Administrator from the Data Protection and Governance Department. It was confirmed that all Pocket Notebooks (PNB) are retained and then disposed

of, in line with force policy (after 6 years from last entry), unless there was evidence, which it was known required their retention. It was confirmed that the PNB records for [redacted] are no longer in possession of Data Protection and Governance and have been disposed of.

The Evidence and Panels Factual Determination

32) The Panel heard from 12 witnesses, Person A, [redacted] and [redacted] all called as part of the Appropriate Authority's (AA's) case. The accused officer, [redacted] and [redacted] were called as part of the Officer's case. The panel were also provided with a bundle of documents consisting of 278 pages containing 35 documents as itemised on pages 4 and 5 of that bundle.

33) We reminded ourselves that it was the AA's burden to prove these factual allegations on the balance of probabilities. The Officer did not need to prove anything. As the allegation arises from a single episode, we needed to make findings on those particulars. Only then would we consider what Standards of Professional Behaviour (SPB's) – if any – were breached – and then, if any of the conduct found proved amounted to misconduct, gross misconduct or no misconduct at all.

34) We will not rehearse all the evidence we heard in this determination but will discuss what evidence we found to be relevant to the allegation and how we applied it to reach our conclusions. We also took account of the contents of the agreed bundle of evidence where relevant.

[redacted]

36) We considered that Person A and the Officer were the primary witnesses as only they were present for the index event. There was agreement that an incident had taken place – the issue was whose version was credible and could be relied upon.

37) We found that Person A was a credible and reliable witness. She did her best to recall incidents and was readily prepared to make concessions when she was unable to remember events. She did not embellish her version of events when she would have had the opportunity to do so. A good example of this was when she was giving her evidence in chief about the second incident in a series that she outlined in her evidence. This related to an incident in around 2006 to 2007 (bundle page 98). She was sleeping with the officer and when she woke up in the morning she had a black eye. In her witness statement she had stated that she did not, "***know if it was an accident or not*"** she stuck to this story during her oral evidence. The panel considered this was just one example of her honesty and, had she been malicious, she could have easily embellished the officer's culpability.

38) Person A outlined a further incident which occurred at around the same timeframe (2006 to 2007) where she had fallen down a flight of stairs that was associated with the officer making physical contact with her (bundle page 98). This was outlined in her statement and subject to her oral evidence and cross examination. Person A was very careful not to be unfairly definitive about the officer's culpability stating she could not say if she was deliberately pushed, but that the fall was a result of "***contact***" from the officer. Again Person A could have easily exaggerated her account to the detriment of the officer but was once again clearly demonstrating honesty.

39) We considered all the similar fact evidence presented including the incidents in the above paragraphs. We accepted the position that we did not need to make findings of fact that such events happened and noted that the Officer accepted that these allegations were in fact made. We were satisfied that these prior allegations support the contention that the Officer had a propensity to behave aggressively and/or forcefully towards Person A further strengthening the AA's case, as well as indicating the reliability of the evidence given by Person A.

40) We accepted that Person A's memory 'blanks' were genuine and consistent with her claim that she had attempted to block some of the events out as a form of 'coping mechanism'. We accept her version that she and the Officer had agreed that she would concoct a false story after the event and when she went to A&E. If she was a vindictive witness, as had been suggested, she would not have agreed to that course of

action and would more than likely made a complaint of assault then or close to the time of her injury. Her history given at the Royal Gwent A&E was designed to protect the Officer whose job would have been in jeopardy had she told the truth.

41) There had been a long delay in this case. We accepted Person A's explanation for her late complaint. [redacted] She also had developed far more awareness of domestic violence issues, and her new post resurrected memories of the index event. The rationale for the late disclosure was particularly understandable and convincing. She indicated (amongst other things) that she became responsible for key issues relating to standards of behaviour and was a manager and supervisor of people as well as responsible for organising courses and events. She, as a victim of domestic abuse, felt she was hypocritical not setting an example and addressing the index incident and she was concerned that the perpetrator was now a supervisor responsible for dispatching officers to domestic violence incidents. She stated she wanted to be an ***"upstander not a bystander"*** and was anxious [redacted] about encountering PS Nocivelli.

42) We noticed that Person A's account of the index event was supported by several sources of evidence. We noted a message in an electronic conversation with [redacted] from August 2010 (close to the index event), where Person A referred to the Officer having a temper. We considered that it was consistent with Person A's case and its closeness to the index event gave support to her account.

43) We considered evidence that Person A had told several of her friends, at different times over several years, versions of events consistent with the AA's case. We noted that the evidence of these witnesses was largely unchallenged. Person A told [redacted] and [redacted] that the black eye she suffered in June 2010 was caused by the Officer punching her in the face. She told an additional three people, that the Officer had struck her or that the Officer had given her a black eye. This was important probative evidence supporting the AA's case. The Officers mother also witnessed the relevant injuries to Person A's face on or about the 20th June 2010 when she saw Person A at an upstairs window when she visited the property.

44) We also gave weight to the notes from the Royal Gwent Hospital A&E completed about 10 days after the incident that recorded Person A telling medical staff that the injury was caused by her being '***punched***'. Person A had initially maintained a concocted story that she had fallen in the bathroom hitting taps but on attending hospital she stated she had been assaulted in the street by two girls. These stories were intended to protect the officer from investigation.

45) Unchallenged evidence from the Witness [redacted], the Medical Report Officer, (Document 28) details the following:

> **a. On 29th June 2010, the patient attended Royal Gwent Hospital Emergency Department, where it was**
> **b. noted that:**
> **c. the left eye socket (orbit) was tender to touch**
> **d. there was swelling to the left cheek**
> **e. there was bruising to the jaw**
> **f. the upper jaw (maxilla) was tender to touch**
> **g. An X-ray image of the bones of the face showed no bony injuries.**
> **h. Treatment included:**
> **i. The patient was advised to take regular painkillers (paracetamol)**
> **j. The patient was advised to attend her General Practitioner if there was no significant improvement in ten days.**
> **k. On 29th June 2010, the patient was discharged from the Emergency Department.**

46) The unchallenged medical notes indicate that Person A attended the hospital with reason for attendance being "***assault***". The index incident date was noted as Saturday 19th June 2010 at 00:00hrs. Person A was accompanied by "***partner***". Complaint is noted as "***face injury***" and mechanism is "***punched to fac***e". Injury is noted as: ***Headache and dizziness for approx. 2/7. Swollen straight away. Bruised around eye. Eyelids swollen and unable to open. Resolved in 2 days. Visual problems since. Attending as cheek still swollen and bruising to jaw line.*** The notes also state, "***Slight swelling left cheek and bruising around jawline *illegible* Bony tenderness***

left inferior orbit and maxilla Full range of movement (ROM) mouth/jaw"
(Document 29)

47) The medical evidence indicates that Person A suffered a significant injury on the 19th June 2010. The injuries that she suffered were, we were satisfied, consistent with a punch. She gave that mechanism for her injury when she went to Royal Gwent Hospital A&E.

48) We properly took account of the fact that some of the witnesses called by the AA were not approached to see if they could recall Person A giving a version of events between herself and the Officer until many years after the conversations had taken place. However, they were able to recall that there had been conversations and gave broad detail of what had been alleged which amounted to aggression from the Officer towards Person A. There was also evidence of the witnessing of injuries at or close to the material time in June 2010. We accepted the evidence of these witnesses.

49) On the 29th June 2010, Person A uploaded a photograph to Facebook of her and PS Nocivelli which she recalled as depicting her and the officer being out for an Indian meal [redacted] This photograph depicts injuries consistent with the documented injuries from the hospital records, with an apparently healing lip injury.

50) The similar fact evidence of two prior instances of violence from the Officer towards Person A was, we found, probative in that the Officer had a propensity to show aggression and use force in relation to Person A.

51) We also note that there was a counter allegation made by the Officer against Person A which involved the use of keys as a weapon. We did not consider that this was relevant or helpful evidence as it occurred after the index event and was an isolated allegation of violence by Person A towards the Officer. We reminded ourselves that the core issue for us to determine was the allegation stated in the Regulation 30 notice.

52) Although the Officer did not bear any burden of proof, we were not satisfied that he was a credible or reliable witness and concluded we could not rely on his evidence.

We did not accept his explanation regarding the index event that he had been unable to get away from an ongoing aggressive verbal onslaught from Person A. He was a trained response officer who would deal with such situations on a regular basis. There were probably four stages where he could have extracted himself from an obviously escalating situation, the public house, the taxi ride, downstairs in the property and upstairs prior to the index event. He would also have had trained and practised conflict management training and de-escalation skills including the National Decision Model (NDM) - all designed to manage and de-escalate conflict. He did not employ the most obvious tactic of flight.

53) The Panel was also concerned that the Officer had no recall of the matters contained in the similar fact evidence: these were unusual, dramatic and memorable episodes, not routine day to day occasions. We consider his blanket claim of a lack of recall was not credible.

54) The Panel was also satisfied that the Officer's account of how Person A came to be injured was not credible – it was far more likely that she was injured when she was punched by him, this is the version of events that we prefer.

55) Regarding the concoction of two versions of events to tell the hospital staff and others, the Panel noted that the false accounts were in fact favourable to the Officer as they reduced the risk that he might lose his job.

56) The Panel had regard to the evidence given by the Officer's mother. We noted that what she heard during a phone call with the officer was inconclusive and did not support one account over another. The other witnesses were his ex-partner and current partner, but they were not witnesses to the index event and their evidence added little.

57) The Panel was invited to treat the Officer as someone who was of good character and entitled to a 'character direction'. The Panel had been told of a previous disciplinary sanction received by the Officer in November 2022, with no other details about it apart from the fact that it was a Final Written Warning and it did not arise from any improper use of force. The Panel did not therefore take the prior finding into account when assessing the issues in the case.

Finding of Fact and Breach of the Standards of Professional Behaviour

58) The allegation, as outlined in the Regulation 30 notice, is therefore proved for the reasons stated above.

59) As we have found the factual allegation proved, we now have regard to which, if any, of Standards of Professional Behaviour are breached.

60) It is also alleged also that the Standard Authority, Respect and Courtesy was engaged – it requires a police officer to **"*…act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy. Police officers do not abuse their powers or authority and respect the rights of all individuals*."** By our factual findings, we are satisfied that the Officer did not act with self-control and tolerance and did not treat Person A with respect and courtesy. We therefore find that this Standard was breached.

61) It is alleged that the Standard of Discreditable Conduct was engaged in that his conduct is likely to undermine public confidence in, and the reputation of, the police service. The Standard requires: ***"Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty"*** We are satisfied that – having regard to the totality of our factual findings – the Officer's conduct inevitably will undermine the public's confidence in the police service. We also find that this Standard was breached.

Misconduct/Gross Misconduct

62) We now move on to assess the seriousness of the proven misconduct. As previously stated, Under Regulation 2(1);

   a. ***Misconduct means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action***
   b. ***Gross Misconduct means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.***

63) In The Police College Guidance it is stated that, ***"the treatment of a single individual can be sufficiently serious to amount to gross misconduct"*** (Para 4.43)

Seriousness of the proven Conduct

a) Culpability

64) This was conduct that was intentional and deliberate. The Officer could and would have foreseen the risk that a punch, as delivered, would have caused the type of injuries suffered by Person A. We note the blow was so firm that she was knocked onto the bed and the bed was broken.

65) We also have regard to Para 4.62 of the Outcomes Guidance: "***Violence against women and girls perpetrated by a police officer, whether on-duty or off-duty, will always have a high degree of culpability, with the likely outcome being severe****."* This allegation falls into that category.

66) The Officer was solely culpable for the conduct found proved.

67) The Officer has breached 2 Standards of Professional Behaviour. His conduct was criminal in nature reflecting the offence of Actual Bodily Harm (Section 47 Offences Against The Person Act 1861) and we take this into account when considering the culpability of this Officer. He does not have a conviction from a criminal court, but this panel has considered the proven elements of his actions in relation to the physical acts and consequences of his actions against person A. The College of Policing Guidance at paragraph 4.23 states, ***"If the conduct found proven in the misconduct proceedings is criminal in nature, take this into account when considering the culpability of the officer, notwithstanding the absence of a criminal conviction. Although the purpose of misconduct proceedings is not to punish the individual, the outcome imposed may reflect the criminal nature of the misconduct".***

68) The Officers' actions were clearly deliberate although we did not find that they were preplanned. All police Officers are in a position of trust, and he would have been aware

of the potential impact and consequences of his actions. The Officer was in a relationship with Person A, and this was, by definition, domestic abuse.

69) The concocted plan(s) to hide the true reason for the injuries sustained by Person A also indicate high culpability.

70) The latest version of the College of Policing Guidance on Misconduct Outcomes specifically mentions the issue of Violence against women and girls at paragraph 4.62 and gives clear direction to Misconduct Panels'

> "***Violence against women and girls perpetrated by a police officer, whether on-duty or off-duty, will always have a high degree of culpability, with the likely outcome being severe."***

71) In recent years there has been considerable scrutiny of the police response to Police Perpetrated Domestic Abuse (PPDA) and Violence against Women and Girls (VAWG). The police response has been shown to be wholly inadequate on many occasions, and it is now clearly understood that victims of PPDA face considerable and unique difficulties that exacerbate their trauma.

72) The latest version of the College of Policing Guidance on Misconduct Outcomes specifically mentions the issue of violence against women and girls at paragraphs 4.60 to 4.62 it states;

> ***4.61 Policing has come under national scrutiny through high-profile cases where there has been a failing to prevent or protect women and girls from abuse and violence, and/or violence has been perpetrated by those serving the police. It is imperative that policing makes it clear that misconduct of this nature is wholly unacceptable, setting a clear expectation as to the seriousness to which these matters are treated.***

73) The more culpable or blameworthy an Officer's behaviour, the more serious will be the misconduct and the more serious the outcome. The culpability of the officer is high. We consider that the officer's culpability was 'High'.

b) <u>Harm</u>

74) We are satisfied that harm has and/or will be caused to public confidence in policing. The Officer has committed acts that would harm public confidence if the circumstances were known to the public, and we take this into account. There is actual harm to Person A – she has suffered physical injuries which were significant at the time of the assault and for some time afterwards. [redacted]

75) We noted the following from the Guidance (para 4.66) ***"Harm will likely undermine public confidence in policing. Harm does not need to be suffered by a defined individual or group to undermine public confidence. Where an officer commits an act that would harm public confidence if the circumstances were known to the public, take this into account. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims."***

76) This matter has significant potential to harm public confidence in policing – particularly among women and girls. A police officer perpetrator of domestic abuse has been shown to have serious implications over and above that of similar actions committed by non-police officers. The corollary of the above is that PPDA is a matter of significant public interest and concern and that any officer found to have committed such an offence will have the level of public interest and the need to maintain public confidence in police misconduct process properly considered when an outcome is being determined.

77) This hearing has been held in public for reasons of transparency, open justice and public confidence in police misconduct processes. The nature of the proven conduct is now a matter of public record. Public interest and opinion will be informed accordingly.

78) The panel consider that the Harm aspect of this officer's proven misconduct is 'High'

Misconduct/Gross Misconduct

79) Taking our findings individually and collectively we are satisfied that they establish high culpability and a high level of harm. Reminding ourselves of the test for gross misconduct, we are satisfied that the misconduct in this case is very serious and amounts to gross misconduct, i.e. the type of conduct that would justify dismissal.

Outcome

80) The Panel next turned to consider outcome. We had regard to the Home Office Guidance of February 2020 (HOG) as well as the 2023 College of Policing "*Guidance on outcomes in police misconduct proceedings*" ('Outcomes Guidance').

81) We again reminded ourselves of the purpose of the police misconduct regime – to:

- maintain public confidence in and the reputation of the police service.
- uphold high standards in policing and deter misconduct.
- protect the public.

82) We structured our deliberations to ensure that we complied with the Outcomes Guidance as set out below. The Guidance at paragraph 4.2 sets out the stages to determine the appropriate sanction

   a. ***Assess the seriousness of the misconduct:***

   b. ***keep in mind the purpose of imposing sanctions:***

   c. ***Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.***

83) The Outcomes Guidance at paragraph 4.3 states seriousness is assessed by

   a. ***the officer's culpability for the misconduct.***

   b. ***the harm caused by the misconduct.***

   c. ***the existence of any aggravating factors; and***

   d. ***the existence of any mitigating factors.***

84) We took note that a factor of the greatest importance is the impact of the misconduct upon the standing and reputation of the policing profession.

85) Our finding of gross misconduct was, by definition, one that the misconduct was so serious that the Officer's dismissal would be justified, although we noted and kept in our minds throughout our deliberations that not every finding of gross misconduct will lead to dismissal.

86) We bore in mind that we must always take personal mitigation into account, but that personal mitigation is likely to have a limited impact on the outcome where the misconduct threatens the maintenance of public confidence and respect for the police. The Panel's approach was to consider the misconduct and mitigation and impose the most appropriate outcome – the question of which outcome is appropriate is achieved by considering the range of outcomes available starting with the least severe.

87) We have had regard to the fact that two Standards of Professional Behaviour had been breached as part of our findings of fact and that gross misconduct has been established. We reminded ourselves that we must avoid 'double counting' when assessing seriousness.

88) We received the Officer's service record and considered a number of positive testimonials. We received no additional evidence that might invoke the Equality Act. We noted, and the parties agreed, that Regulation 42(8) of the 2020 Regulations applied to remove the possibility of imposing a further Final Written Warning in this case as there was already one in place at the time the severity assessment in this matter was completed. This limits the available sanctions to only a reduction in rank or dismissal without notice.

89) We brought forward our findings on culpability and harm as outlined in earlier paragraphs of this judgement.

Aggravating Factors

90) We found that there had been an attempt by PS Nocivelli to blame Person A for the officers' situation.

91) There is notable national concern about domestic violence/abuse by Police Officers towards women, which was also a factor at the date of the index event. The proven Misconduct involves violence and abuse which are known to disproportionally affect women, see Outcomes Guidance para 4.60. (we mention this here for context and have been very careful not to 'double count' this matter during our deliberations).

92) We have found that the officer has committed violent domestic abuse and has a history of some aggression. He was aware of the direct and wider consequences and impact of domestic violence and abuse at the time of the charged incident.

93) The panel consider that Person A may be classed as vulnerable due to her status relative to the officer and the impact of the officer's abusive behaviour towards her over an extended period. The College of Policing Outcomes Guidance states, "***experience of crime –including domestic abuse"*** is a factor that may give rise to vulnerability (Para 4.52).

c) Mitigating factors

94) The following mitigating features were also present; there had been a significant lapse of time without any repetition of this kind of misconduct; the allegation amounted a single episode and there was no evidence of premeditation or planning on behalf of the Officer.

95) The Officer has given some good service to Gwent Police, and the public, in the period between the index incident and his suspension (however noting his Final Written warning in 2022 which was extant at the time of the severity assessment for this matter).

96) The panel heard no other evidence of relevant personal mitigation. We however gave appropriate weight to the positive character evidence submitted. We took care not to penalise the Officer because his defence was rejected.

97) Moreover, we reminded ourselves that purely personal mitigation is not relevant to our assessment of the seriousness of the misconduct. The importance of maintaining public confidence in and respect for the profession of policing is of primary concern. This officer's particular misconduct was violent and in a domestic context. We were satisfied this threatened the preservation of public confidence and respect in policing. This results in less weight being attached to the personal mitigation being advanced. The essential issue is the need to maintain public confidence in the policing profession.

98) We carefully considered the Outcomes Guidance at paragraph 4.82 that cautions us against applying today's standards to a historical matter. It is within the panels knowledge that the prevention and prosecution of domestic violence was a significant priority in policing at the time of the index event and there were many high profile legislative, policy and advisory initiatives developing and applicable at the time. We also carefully considered the many years between the index event and Person A's disclosure (as outlined earlier). We do not consider that the years that passed have diluted or negated the seriousness or the impact of the Officers' actions.

Sanction

99) In relation to off duty conduct the **HOG** makes clear, **"*a police officer is always subject to the Standards of Professional Behaviour even when off-duty. As such police officers should not behave in a manner that discredits the police service or undermines public confidence at any time*"** (para 2.18).

100) In Bolton v. Law Society [1994] 1 WLR 512 Lord Bingham MR said in the context of solicitors' disciplinary proceedings that it was required of lawyers practising in the UK "***that they should discharge their professional duties with integrity, probity and complete trustworthiness***". He said that the most fundamental purpose of professional disciplinary proceedings was to maintain the profession's reputation and to "***sustain public confidence in the integrity of the profession ... A profession's most***

valuable asset is its collective reputation and the confidence which that inspires". This applies with equal force to police officers, as confirmed in Salter (see below).

101) In Chief Constable of Dorset v. PAT and Salter [2011] EWHC 3366 (Admin) the High Court set out three important factors to be considered (dealing with outcome, but relevant also to the purpose of misconduct proceedings):

"*24.* ***It follows that when considering questions of sanction, the Panel, the Chief Constable on review and the Tribunal should have regard to the following factors:***

i. The imposition of sanctions following a finding of misconduct by a police officer may have three elements:

a. There may be a punitive element designed to punish the police officer concerned and to deter others, particularly if he has not been prosecuted and convicted. But the imposition of sanctions is not primarily punitive, and may not be punitive at all.
b. The sanctions imposed may be designed to ensure that the police officer does not have the opportunity to repeat his misconduct.
c. However, the most important purpose of these sanctions, particularly in cases involving dishonesty or impropriety in connection with an investigation, is to maintain public confidence in the police service and to maintain its collective reputation.

ii. One consequence of the fact that sanctions imposed in the disciplinary process are not primarily punitive is that personal mitigation is likely to have a limited impact on the outcome."

102) The Panel again reminded itself of the purpose of imposing sanctions. It had regard to the public's perception of this kind of misconduct, the adverse impact on public confidence and the specific impact that it would have on the perception of females in the policing profession in general, domestic violence advocates, women and girls and in particular Person A.

103) The only available outcomes to us in this matter are twofold;

i. Reduction in rank
ii. Dismissal without notice.

104) Overall, we consider that the officers offending is very serious and we have carefully applied the purposes of the misconduct regime (as previously outlined) to all our sanction deliberations to apply an outcome which most closely meets its overall objectives. We first considered the lesser the lessor outcome of reduction in rank. Before moving on to consider dismissal.

105) There are very strong public interest and public confidence considerations in this case due to the nature of the offending behaviour, as well as clear direction from the **Outcome Guidance** at (Paragraph 6.6);

> ***"The primary consideration for the panel or chairperson is the seriousness of the misconduct found proven. If the misconduct is so serious that nothing less than dismissal would be sufficient to maintain public confidence, personal mitigation will not justify a lesser sanction."***

106) We have followed the principle outlined in *R (on the application of Chief Constable of the West Midlands) (Claimant) v Panel chair (Police misconduct panel) (Defendant) & Officer A (Interested party) (2020).* This case emphasises the importance of keeping the overarching purpose of the misconduct regime in mind at all stages of the process. The case reminds us to address this in our written outcome, which we have done by assessing the applicable facts in relation to each stage of the process and outlining how they sit with the purpose of the misconduct regime.

107) In relation to assessing the appropriateness of a reduction in rank as a potential sanction, we have particularly considered the following issues when first deliberating if a reduction in rank is more appropriate than immediate dismissal;

a) All mitigation including the Officers record of service, his references and the mitigation put forward by his Counsel.

b) This is not the worst case of domestic abuse/assault that has occurred within UK policing – worse have been identified but the behaviour still clearly crosses the threshold. The harm and impact upon Person A is very clear. Gross misconduct is proved and for this type of offence the Outcomes Guidance at paragraph 4.74 is clear that "***dismissal is likely to follow***"

c) The Officer denied the proved conduct and has put Person A through the ordeal of having to give evidence before this panel.

d) The Officers conduct reflects the components of a criminal offence, 'Actual bodily Harm' (Section 47 Offences Against The Person Act 1861 - which carries a sentence of up to 5 years) and we are advised to take this fact into account by the guidance despite the absence of a criminal conviction (para 4.23).

e) The public interest in how we deal with this sort of police misconduct is (and was at the time of the index incident) high and to retain an Officer with proven gross misconduct of a domestic violence nature (PPDA) is not going to build public confidence in police misconduct procedures particularly among women and girls, groups representing victims of domestic abuse and Person A. The scale and depth of local and national concern in relation to the found misconduct is significant. Police Perpetrated Domestic Abuse (PPDA) has been the subject of probing and insightful national scrutiny and has led to specific changes in misconduct policy and practice.

f) We have considered the Outcomes Guidance at para 4.82 which cautions us applying today's standards against changing attitudes and standards over time. It is within the knowledge of the panel that Domestic Abuse was also high on the national and policing agenda at the time of the index incident. There have, of course, been recent incidents which have increased current action and focus in this area.

g) This type of behaviour has been seen, all too often, across the UK and Officers have already been dismissed. This is well known and publicised. An appropriate sanction needs to deliver a clear deterrent effect to protect the public, officers and staff from similar conduct in a manner that conveys a positive message to all observers of this process.

h) The sanction outcome needs to maintain high professional standards and make it clear to officers/staff that behaviour such as this on or off duty, is not to be tolerated.

i) The Officer has already been subject of a final written warning (**FWW)**. A reduction in rank, which is a weighty sanction, could in certain circumstances, be disclosable

in civil or criminal proceedings. This could cause significant professional embarrassment to the force and severely limit the officer's deployment potential. This could be a sub optimal use of scare and expensive police resources. Certain misconduct findings can limit the operational deployment of subject Officers for many years. In times of acute fiscal constraint, in one of the smallest forces in the country, this is a real consideration.

j) The AA has made very clear submissions that he would not welcome the Officer back in the force with this misconduct finding (and reduced rank) given the very real and obvious consequences of the limitations of his ability to be deployed operationally. This was not put forward as an 'impossibility', but the limitations of the Officer's utility reduced in rank with such a misconduct finding, were clear and the AA's absolute and unwavering recommendation (which is advisory) was for a dismissal following the panels finding. (AAs views must be canvased on views prior to this sanction being applied including in relation to likely operational impact under Regulation 42 (13) and Regulation 62(7) of the Conduct Regulations)

k) The Officer, if allowed to continue to serve and reduced to the rank of Constable could have a 15-year career ahead of him costing the taxpayer many hundreds of thousands of pounds in pay and pension entitlements. The public may well question if this a proportionate outcome and a wise expenditure of public funds that could be better spent on an officer who had not transgressed in such an unacceptable manner.

l) The Officer's conduct is contrary to significant training and awareness he has received. This training specifically equips the officer with the skills and awareness to deal with and to manage and de-escalate confrontation. He chose not to follow his training, nor adhere to the clearly understood expectations of the police service.

m) Overall, the Officer's misconduct does not relate to his position as a supervisor and a reduction in rank does not address the stated outcomes of the police misconduct regime.

Sanction Outcome

108) We have considered paragraphs 3.19 and 3.20 of the Outcomes Guidance during our determination. We decided that this Officer's conduct was not a matter of poor leadership and was at the level which justified dismissal, for an officer of any rank

including constable. There would be considerable operational difficulty in continuing to deploy an Officer with this type of misconduct on their service record.

109) The Panel reminded itself that its central concern, having regard to the principle of proportionality and weighing the interests of the public and the Officer, is the reputation or standing of the policing profession rather than the punishment of the officer. Accordingly, the Panel concludes that, having found gross misconduct, the Officer's behaviour does/will cause great harm to public confidence in the profession of policing. We are satisfied that the misconduct was so serious that only an outcome of dismissal without notice is justified.

110) We have therefore carefully and fully considered and discounted the lesser sanction outcome of a reduction in rank, taking into full account all the mitigating factors raised by and on behalf of the officer. We determine that only a sanction of immediate dismissal is commensurate and appropriate with the stated objectives of the misconduct regime, for the reasons we have outlined above.

Barred List

111) We direct that the Officers name be placed on the Police Barred List (Police Barred List Police Advisory List Regulations 2017).

Appeal Provision

112) The officer has a right to appeal in accordance with the Police Appeals Tribunal Rules 2020. The officer must provide notice of his intention to appeal to the Appropriate Authority within 10 working days of the service of this written determination.

Signed

Ian Arundale QPM
Misconduct Hearing Chair

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