IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

IN THE MATTER OF

SC BELL

REGULATION 43 REPORT

1. This is the panel's report into the allegations of Gross Misconduct against Special Constable Bell ('the Officer').

The Hearing

2. The allegations were denied.
3. The Chair had given directions about the filing of legal arguments about an application for a stay of proceedings based on alleged unfairness/prosecutorial misconduct. Both parties filed written documents.
4. On the first morning of the hearing, which was scheduled for 4 days, we heard submissions from both the Officer and Mr Reed for the Appropriate Authority (AA). The Officer raised concerns about the existence of a second (and perhaps third) witness statement from the Complainant that he had not been provided with.
5. Mr Reed agreed to provide the panel with a copy of the witness statement which was also supplied to the Officer. On examination it became apparent that the statement in the bundle (the second in time) was simply an expanded version of this earlier statement and was word for word the same, save for some minor

formatting differences. That was why it did not meet the Criminal Procedure and Investigations Act (CPIA) disclosure test. It neither undermined the presenting side's case nor assisted the officer.

6. While the panel was reading the witness statement, SC Bell indicated that he wished to change his position. The hearing reassembled, and the Officer admitted the facts, that his conduct breached the standards of professional behaviour as alleged and that it amounted to gross misconduct.
7. The panel heard submissions from both parties and received legal advice from the Legally Qualified Person (LQP), who we invited to retire with us to help with the drafting of our decision. The LQP played no part in the decision-making process.
8. We were helpfully reminded that even where the Officer has made full admissions, each stage was essentially a matter for the panel.

Facts

9. The evidence in the bundle clearly shows that the message was sent. That has never been in dispute.
10. The panel have considered the evidence about the second part of the allegation, which concerns the officer's intention when he sent the message. The officer admits that he intended alarm, distress, and or/humiliation. The best evidence of the Officer's state of mind is his own admission. The panel are satisfied that that admission is entirely consistent with the evidence in the bundle. It is difficult to see what other intention the Officer could have had in sending an image of this type to a WhatsApp group containing Ms A's relatives.
11. The AA has proved its factual case.

Standards

12. The question of whether standards were breached is a matter for the panel.
13. The standards alleged to be engaged are:
    a. Authority, Respect and Courtesy.
    b. Discreditable Conduct
14. This behaviour involved Ms A being treated with a serious lack of courtesy and respect. We also find that the behaviour involved treating her family with a lack of respect and courtesy. We have examined SC Bell's point that Ms A's mother was not in the WhatsApp group. We take the view that the fact that the Officer sent her the same picture with a similar, if not identical, comment on the same day means that it would be entirely false to differentiate between the WhatsApp group and a WhatsApp message sent on the same day.
15. We also accept that a right-thinking member of the public, aware of all the facts, would regard this as seriously undermining their trust and confidence in both Greater Manchester Police (GMP) and the profession of policing. This is abusive behaviour in a domestic context. We note the Officer's case is that he regards himself as a victim, but that cannot begin to excuse this behaviour.

Severity

16. We have gone on to consider whether this conduct amounts to misconduct, gross misconduct or neither. That involves considering what would be justified. In our view, this is at least arguably a high-culpability, high-harm case. It

involves deliberate, targeted behaviour that involved at least some planning and premeditation. It involves discreditable conduct and the deliberate causing of distress in a domestic context. Both of those factors are relevant to the potential for significant harm to public trust and confidence. This is a clear case of Gross Misconduct.

Outcome

17. By the time the panel had reached its Stage 1 decision, above, SC Bell had left. He told us he meant no discourtesy but did not wish to take any further part. We accept that he meant no discourtesy.
18. The panel have gone on to consider the outcome.

Culpability

19. Our base assessment of culpability is that this involves deliberate, targeted behaviour that involved at least a degree of planning and premeditation.
20. We note that this is certainly akin to criminal behaviour, even if this was an image that was, in one sense, "shared" previously; that was on a specialist website and certainly not shared with family members. Sending it to family was an entirely different act from posting it on such a website.
21. This is a high culpability case.

Harm

22. In terms of harm, the panel note the distress caused to Ms A. We acknowledge that, but in our view the most serious harm is to the reputation of GMP and the policing service.

23. This is using a sexual image to cause harm in a domestic context. The public would be significantly concerned to hear about a police officer doing that. We accept that it reinforces local and national concerns about sexual misconduct by male police officers. Further, this is abusive behaviour towards a woman.
24. This is a high harm case.

Aggravating and Mitigating Features.

25. We have already considered the aggravating features we think apply and do not double count.
26. We have given weight to the fact that this was a relatively brief incident. We have also given weight to the fact that there is some evidence that the Officer was struggling with his mental health at the relevant time. The end of a relationship can be very difficult, but that can only ever be a context factor and given limited weight. He also admitted sending the relevant message throughout the case, and we give some further credit for the clear admissions made today, even at such a late stage.

Personal Mitigation

27. We have considered the personal mitigation advanced, which is very limited. From the record of service, we have concluded that this is an Officer who has given his time to the community as a volunteer since 2011. The weight that we

can give to personal mitigation is limited for the reasons set out in the College of Policing Guidance, but we do give it weight.

Purposes

28. We have reminded ourselves of the three-fold purpose.
29. The primary purpose is to maintain public trust and confidence, which is central to our system of policing by consent. Conduct such as this damages that.
30. The objective to uphold high standards is also relevant here.
31. We also think that we must consider the need to protect the public- including the partners and ex-partners of police officers from harm.

Outcome

32. We take the view that a final written warning would be entirely inadequate to address conduct such as this. This type of behaviour is inconsistent with continuing to serve as a police officer. No member of the public needing assistance in a domestic incident or in a case involving sharing of images could have any confidence in an officer with findings such as this. This was serious and abusive behaviour seeking to humiliate a woman by shaming her in the eyes of her loved ones. In the circumstances, the facts that the Officer admitted sending the message, or has worked as a volunteer are entirely outweighed by deliberate misconduct.
33. The panel have determined that the only proper outcome is dismissal without notice, and that is the outcome we impose.