IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

RE: PC 02429 DAVID BUCKLEY

Outcome Decision

The officer admitted the facts of the case and that those facts were breaches of the standards of professional behaviour and that his conduct amounted to gross misconduct.

The panel accepted the officer's admissions and therefore heard submissions in relation to stage 2 of the procedure relating to outcome.

The decision on outcome is as follows:

Outcome

The panel have considered all the submissions, the evidence, the record of service and his good character**.** We also considered the college of policing guidance on outcomes. There is no evidence of any matters of similar misconduct by the Officer during their service. It is fair to note that there is evidence of good work by the former officer during his career within the information supplied and the panel reminded itself of the advice regarding good character.

We have also considered again our purpose within the misconduct regime which is:

1. to maintain public confidence and the reputation of the police service
2. to uphold high standards in policing and deter misconduct
3. to protect the public.

Seriousness assessment

In assessing the seriousness of the misconduct, we have considered:

a. The officer's culpability.

In this matter, the allegations that we have found proven all concerned the direct conduct of the officer. The panel does not find the conduct to have been deliberate, planned or intentional but that it was an impulsive lapse of judgement, shouted in the spur of the moment at a football match. That said, and demonstrated by the immediate sheepishness shown once the officer was challenged, he should have recognised the

consequences of his actions. The officer had a responsibility as a police officer to act in line with the relevant standards, policies and guidance and training available to them.

In terms of the special categories laid out in the Outcomes Guidance, on balance of probabilities, the panel do not consider that there would be a realistic chance of a charge/conviction for a s5 POA offence. The remark made, whilst discriminatory, was not targeted towards the opposing team's player due to his known sexual orientation, but it was homophobic language that reinforced negative stereotypes.

The panel agrees that the second special category referenced by the AA does apply, in that the language used was discriminatory on the basis of sexual orientation.

The Culpability therefore falls at the medium level of seriousness.

b. The harm caused (and the risk of harm).

There was no individual harm reported as a consequence of this conduct, but there was a clear impact on those whose heard it as they immediately took issue and challenged the officer about it. In considering the likelihood and gravity of harm, even if no actual harm resulted, there is a risk that using homophobic language in public would cause offence.

Members of the public expect police officers to behave professionally on and off duty and the public would see this behaviour as unprofessional and it could undermine public confidence in the police service.

The harm and risk of harm in this matter therefore falls at medium level seriousness.

c. The aggravating factors.

The panel finds that the one aggravating factor in this conduct is the deviation from the 'Diversity and Equality in Employment' policy in that inappropriate language was used.

d. Mitigating factors.

The incident was, as accepted by the AA, a single episode of conduct whereby the officer made open admissions at an early stage. The panel have taken regard of the regulation 18 and 31 responses – the officer appears to have shown genuine remorse and insight both throughout these proceedings but also to friends, family and colleagues during the time he has been suspended from work.

The officer has maintained a positive record both prior to and following the incident.

In conclusion, the panel find that culpability is at the medium level and the harm and risk of harm is at the medium level.

Together with the aggravating and mitigating factors, the seriousness overall is at the **medium level** of seriousness.

The panel also considered the extensive personal mitigation, including the record of service and in line with case law, understand that this has limited weight.

The appropriate authority says that a finding that the officer is dismissed is the only appropriate finding.

Having considered all the above matters and the available outcomes, the panel firstly considered whether a final written warning was appropriate.

Having considered the matter very carefully, we found the following features of this case which we considered to be exceptional:

It is a one-off incident that is characterised as a serious lapse in judgement rather than a course of conduct.

The officer has accepted responsibility for his actions, has shown insight and undertaken training since this incident.

Colleagues and friends of longstanding, some of whom themselves have a protected characteristic, describe the officer as always treating them with dignity and respect. They say this comment was completely out of character. The panel accepts this evidence.

Public confidence and maintaining the reputation of the police service is of course vitally important, but the panel considers that if the public knew of all of the circumstances and context surrounding this allegation, they would consider that the purpose of the misconduct regime had been fulfilled.

This case, therefore, does not reach the threshold for dismissal.

Length of Warning

We then turned our mind to the length of the final written warning as per paragraph 3.16 of the guidance on outcomes.

Given the factors to be considered which are dealt with above, we consider that the final written warning should be for a period of two years.

The panel considered that a member of the public knowing the full facts of this case would see this decision as fulfilling the purpose of the misconduct regime.

The officer has acted inappropriately but the mitigation outweighs the need for a more severe sanction.