

PC 1065 GARETH HORTON
DYFED POWYS POLICE
DECISION NOTICE

For the Accelerated Misconduct
Hearing held on 10 March 2025

The Hearing

1. The accelerated misconduct hearing for Police Constable 1065 Gareth Horton was held in public at Dyfed Powys Police Headquarters Carmarthen on Monday 10th March 2025.
2. The Appropriate Authority (AA) was represented by Miss Katherine Hampshire of Sergeants Inn Chambers and the officer was represented by Mrs Susan Ferrier of Apex Chambers. Also present was the officer, his wife, his Police Federation representative PC Ceris Davies and the investigating Officer Mr Mike Henry.
3. It is my 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.

Relevant Legal Principals

4. These proceedings are brought under **Part V** of the **Police (Conduct) Regulations 2020** ('PCR 2020').
5. 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).

6. 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.
7. It is for me to determine the procedure of the 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

8. I must first review the facts of the case and determine whether they are established. The standard of proof I applied is the civil standard of the balance of probabilities (**reg 41(6) PCR 2020**).
9. If the facts are satisfied and I consider them to be a breach of the Standards of Professional Behaviour, then I must consider whether, on the balance of probabilities, the officer's admitted or proven conduct amounts to gross misconduct (**reg 61(15)-(16) PCR 2020**).
10. *Per reg 2 PCR 2020, "gross misconduct" means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.*
11. At the outset, I am 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.
12. I have been careful not to apply too high a standard to guide my deliberations in this matter. I have therefore not applied a benchmark of perfection and have been careful to set a standard that reflects an adequate minimum level of behaviour rather than an aspirational standard of perfection. Setting such a high expectation

would not be fair, or appropriate, for the purposes of my decision making in determining an outcome, as the officer's employment rests upon my decision.

13. I am 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**').

THE CASE AGAINST PC HORTON

Allegations of Fact and Misconduct

14. The Allegations of Fact are as set out in the Regulation 51 notice from paragraphs 1-18. In summary, they are that between 26 March 2023 and 27 June 2023 PC Horton received and responded with approval to messages with transphobic, sexist, homophobic overtones sent to him by another serving police officer PC McElroy. Also that PC Horton himself sent messages with homophobic, racist and violent overtones to another serving police officer.
15. The Allegations of Misconduct are as set out in the Regulation 51 notice form as reproduced (with typos and errors) below - as Counsel for the AA points out these mistakenly read A, C, A rather than A, B, C in the actual Regulation 51 notice.

ALLEGATIONS OF FACT

"Being currently a serving officer of the Dyfed-Powys police, whilst you were a serving officer with Merseyside Police between March 2023 and July 2023 you breached the Standards of Professional Behaviour as set out in Schedule 2 to the Police (Conduct) Regulations 2020 as follows.

26-27 March 2023

- 1) On 26 March 2023 at 21:17 you received a WhatsApp message from PC McElroy. The WhatsApp message read "What's wrong with people! [laughing crying emoji]". Attached to the message was a screenshot of a

facebook advertisement from the website 'thoughtnova.com' with the caption "Trans Woman Who Sued Salon Workers For Refusing To Wax Her Balls Loses Court Cases". Also in the screenshot was a comment from a third individual reading "Dude Just shave your balls like a normal chick". This image had transphobic overtones.

2. On 27 March 2023 at 07:46 you responded with three laughing crying emojis. You did not inform PC McElroy that the message was inappropriate or transphobic.

2 May 2023

3. On 2 May 2023 at 10:21 you received a WhatsApp message from PC McElroy. The Whatsapp message read "I can see why all the hefty's have joined if the adverts are still like this! [laughing crying emoji] but the recruitment department need to re-read the last line! Very lacking! [laughing crying emoji]". Attached to the message was a photograph of an extract from a newspaper article (undated) with the title "HEFTY GIRLS WANTED FOR POLICE FORCE". The last line of the article was "they must be hefty enough to withstand a rough and tumble and they must be fairly good looking". This image and message had sexist overtones.
4. On 2 May 2023 at 13:23 you responded with three laughing crying emojis. You did not inform PC McElroy that the message was inappropriate or sexist.

24 May 2023

5. On 2 May 2023 at 10:21 you received a WhatsApp message from PC McElroy. The Whatsapp message was a video of a mockup of This Morning with Philip Schofield and Holly Willoughby. The audio on that video was as follows:

Ruth LANGSFORD – It's quite a different start to today's show. As you know This Morning is very much a family show. You often share parts of your lives with us and we share ours with you and today Philip would like to share something with you and to help him do that he's here with his on-screen partner but, more importantly, his friend Holly.

Holly WILLOUGHBY – So you may just have seen 9 minutes ago on your television set that my good friend and co-host, Phil, has issued this moving statement that I will read out for you, the viewers. Here we go: "After my brother was jailed the other day for sexual crimes against children it brought the heat on me big time and after much reflection I felt it only right to face up to the fact that I am gay. In this world though admitting such a fact as this is seen as courageous and brave thing to do, although not by my wife of 27 years. I truly hope the fact of me admitting that I am gay will completely overshadow the fact of my young underage boyfriend that I have been shagging in the studio for many years in between the We Buy Any Car adverts. My battle and struggle against who I really am has taken its toll on not just my amazing co-host Holly but also my wife and children and any other children that me and my brother accidentally finger-banged. I have no option to step away from ITV for a while so the heat can die down a bit. I would like to say a huge thank you for supporting yet another covered up sexual predator scandal on morning tv." So wow Phil that's some heartfelt perversion right there. I told you didn't I, you should have worn the face nappy at Wimbledon. We might have been ok to line up with the British public at the Queen's funeral but you couldn't be trusted not to touch people could you. You had seriously better hope that Gordon The Gofer keeps his furry mouth shut."

This video had homophobic overtones.

6. On 2 May 2023 at 20:22 you responded with one laughing crying emoji. You did not inform PC McElroy that the message was inappropriate or homophobic.

26 May 2023

7. On 26 May 2023 at 20:58 you received a WhatsApp from to PC McElroy. The WhatsApp message was an image of Philip Schofield's face edited onto the body of a man surrounded by policemen. Above the image was text reading "what is the charge? Dating a boy? A succulent legal boy?". This image had homophobic overtones.
8. On 26 May 2023 at 21:03 you replied "Ha ha" followed by one laughing crying emoji. You did not inform PC McElroy that the message was inappropriate or homophobic.

31 May 2023

9. On 31 May 2023 at 20:58 you sent a WhatsApp message to PC McElroy. The WhatsApp message was an image of a woman gagging or about to be sick. In text on the images were the words "PHILIP SCHOFIELDS WIFE AFTER REALISING THAT WASN'T NUTELLA ON HIS COCK". This image has homophobic overtones.
10. On 31 May 2023 at 21:16 PC McElroy responded with two laughing crying emojis.

5 June 2023

11. On 5 June 2023 at 11:44 you sent two WhatsApp messages to PC McElroy.
12. One WhatsApp message was an image of stones. At the top of the image was the text 'Pride Month in the Middle East'. This image had homophobic and violent overtones.
13. On 5 June 2023 at 11:56 PC McElroy responded to this message with "Can't beat a good stoning! [ok emoji] ha".

14. The other WhatsApp message you sent was an image of a black man. At the top of the image was text reading “Netflix adaptation of Robin Hood. He steals ~~from the rich and gives to the poor~~”. This image had racist overtones. PC McElroy responded to this message with a laughing crying emoji.

27 June 2023

15. On 27 June 2023 at 07:54 you sent a WhatsApp message to PC McElroy. The WhatsApp message was an image of the Titan Submersible with George Floyd’s face edited on to the front. At the top of the image was text that read ““Gee I hope that lost submarine has enough oxygen” The submarine:”. This image had racist overtones.
16. On 27 June 2023 at 07:52 PC McElroy responded with a laughing crying emoji.

27 June 2023

17. On 10 July 2023 at 17:43 you received a WhatsApp message from PC McElroy. The WhatsApp message read “Claire Balding was presenting Wimbledon today so it’s not him” and had an image of Claire Balding’s face attached”. The image was sent 3 days after the Sun published an exclusive story entitled “Top BBC star taken off air after ‘paying teenager for sexual pictures’”. That BBC star was later confirmed to be Huw Edwards. This image had sexist and transphobic overtones.
18. On 10 July 2023 at 17:59 you responded with three laughing crying emojis. You did not inform PC McElroy that the message was inappropriate, transphobic, or sexist.

ALLEGATIONS OF MISCONDUCT

(A) Your said conduct is in breach of the Standard of Professional Behaviour of **Authority, Respect, and Courtesy** in that:

(1) The messages you sent as particularised at paragraphs [9], [11], [12], [14] and [15] were transphobic, and/or racist, and/or sexist, and/or homophobic and/or had violent overtones. They were disrespectful and discourteous towards women and/or gay people and/or transgender people and/or black people. In sending these messages you acted with a lack of self-control and tolerance.

(2) In your responses to PC McElroy's messages as particularised at paragraphs [2], [4], [6], [8], and [18] you did not inform him that the messages were inappropriate, and/or transphobic, and/or racist, and/or sexist, and/or homophobic. In failing to do so you acted disrespectfully and discourteously towards women and/or gay people and/or transgender people and/or black people. You failed to act with self-control and tolerance.

(3) Your responses to PC McElroy's messages as particularised at paragraphs [2], [4], [6], [8], and [18] were themselves transphobic, and/or racist, and/or sexist, and/or homophobic as they were responses indicating that you had laughed at and/or approved of the transphobic, and/or racist, and/or sexist, and/or homophobic messages sent to you. In sending these responses you acted disrespectfully and discourteously towards women and/or gay people and/or transgender people and/or black people. You failed to act with self-control and tolerance.

(C) Your said conduct is in breach of the Standard of Professional Behaviour of **Discreditable Conduct** in that:

(4) If the public knew about the messages you sent as particularised at paragraphs [9], [11], [12], [14] and [15] they would be rightly horrified by these messages. In sending these messages you behaved in a manner that would discredit the police service and undermine public confidence in it.

- (5) If the public knew that upon receiving the messages sent by PC McElroy as particularised at [1], [3], [5], [7] and [17] you failed to inform PC McElroy that these messages were inappropriate, and/or transphobic, and/or racist, and/or sexist, and/or homophobic they would be rightly horrified. In failing to so inform PC McElroy you behaved in a manner that would discredit the police service and undermine public confidence in it.
 - (6) If the public knew that your responses to PC McElroy's messages as particularised at paragraphs [2], [4], [6], [8], and [18] indicated that you had laughed at and/or approved of the transphobic, and/or racist, and/or sexist, and/or homophobic messages sent to you, they would be rightly horrified. In so responding you behaved in a manner that would discredit the police service and undermine public confidence in it.
- (A) Your said conduct is in breach of the Standard of Professional Behaviour of **Equality and Diversity** in that:
- (7) The messages you sent as particularised at paragraphs [9], [11], [12], [14] and [15] were discriminatory in nature in that they were transphobic, and/or racist, and/or sexist, and/or homophobic and/or had violent overtones.
 - (8) Your responses to PC McElroy's messages at particularised at paragraphs [2], [4], [6], [8], and [18] facilitated and failed to call out discriminatory behaviour from PC McElroy, as you did not inform him that the messages as particularised at [1], [3], [5], [7] and [17] were transphobic, and/or racist, and/or sexist, and/or homophobic.
 - (9) Your responses to PC McElroy's messages at particularised at paragraphs [2], [4], [6], [8], and [18] were themselves discriminatory as they were responses indicating that you had laughed at and/or approved of the transphobic, and/or racist, and/or sexist, and/or homophobic messages sent to you.

Your said conduct individually and/or cumulatively amounts to **gross misconduct.**”

16. PC Horton fully admitted the facts as outlined in his regulation 54 response, and orally at this hearing. I accept this admission and find the charges, and breaches of the **SBP**, proven by the officer’s admissions and my full consideration of the evidence.
17. The messages PC Horton received and sent were a mixture of transphobic, racist, sexist, homophobic and violent themes, I find as fact that the messages were discriminatory in nature. They were disrespectful and discourteous towards women, gay people, transgender people and persons of colour. If the public knew about these messages, they would be rightly horrified. The messages discredit the police service and would also undermine public confidence having been received and sent by serving police officers. The messages significantly fail the test set out in the **HOG** above at paragraphs 1.18 – 2.20 and breach the Standards of Professional Behaviour and the Police Code of Ethics. As Counsel for the officer has conceded in her written submission the officer’s actions were “*appalling*” and messages in question were “*repugnant*”.
18. PC Horton did not challenge PC McElroy’s messages. The messages that PC McElroy sent were also highly inappropriate, transphobic, racist, sexist, and homophobic. In failing to do so, PC Horton acted wholly inappropriately towards sections of society with a range of protected characteristics who are regularly subjected to discrimination, abuse and attacks. These are people the officer should have been supporting and protecting - not insulting nor abusing them. I will further discuss the messages PC Horton sent later in this document.
19. Failing to report or challenge these messages, and their discriminatory nature, discredits the police service, undermines public confidence and is discriminatory.

Seriousness/Gross misconduct

20. Gross misconduct is conduct so serious that dismissal would be justified. I am however very conscious that this does not mean that dismissal must inevitably follow. After all the facts of the case, including mitigation, are considered – lesser options must be considered first.
21. The AA considers that the breaches of the standards of professional behaviour alleged and accepted by PC Horton taken together are so serious as to justify dismissal and constitute gross misconduct. Counsel for the officer also indicates that the officer agrees that *“the accepted conduct taken collectively amounts to gross misconduct”*. I formally accepted the submissions and determine that the officer’s breaches constitute gross misconduct.
22. I note that the **HOG** states that *“Discrimination towards persons on the basis of any protected characteristic is never acceptable and always serious”*. All the charges in this case relate to ‘protected characteristics’ which are covered by the Equalities Act 2010 and are listed in the **Outcomes Guidance** under the Discrimination heading.
23. PC Horton’s regulation 54 response draws attention to the fact that the WhatsApp messages that form the substance of the misconduct allegations against him were *“received and sent from my personal mobile telephone, not a device issues (sic) by the force. They were messages which were shared privately with a colleague, PC McElroy, on WhatsApp and not on a platform which was visible to the general public”*.
24. However, as 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).
25. Further, *“any content or messages that are shared with colleagues via social media, email, text message or encrypted messaging services (even in an off-duty or private capacity) are nevertheless shared with workplace colleagues”*, and are *“potentially reportable”* (**HOG**, para 2.20). As such, *“Where shared with other*

officers or staff, whether an individual is actually off-duty at the time that such a message is sent may not be relevant – individuals should apply the test as to whether the comments, content or material would be considered appropriate in the workplace and in line with the Code of Ethics and Standards of Professional Behaviour before sending or sharing any material in this way” (HOG para 2.20).

26. I have not received any Article 8 ECHR submissions on this case.
27. The messages sent by PC Horton were shared with another police officer. The messages could not be considered appropriate in the workplace, especially the Policing workplace and were clearly in breach of the Code of Ethics and the Standards of Professional Behaviour. Counsel for the officer submitted that similar messages to the ones in question are readily circulating on social media. This may be an unfortunate reality but that does not make them acceptable or tolerable. PC Horton should clearly have known the messages were incompatible with the core principles of policing and that both PC McElroy’s and his own messages were highly inappropriate, discriminatory and reportable.
28. The AA considers that – in line with the **HOG** – the fact that the messages were sent on a private device is irrelevant to considerations of seriousness. I note this is an important point and agree that it does not negate the overall seriousness of this officer’s acts and omissions.
29. PC Horton sent and approved of messages that had transphobic, racist, sexist, homophobic, and violent content, multiple times over a period of months.
30. Police officers hold a unique office, which permits them access to vulnerable members of society at some of the most difficult times in their lives. It is right that police officers are held to high standards and that they should not express biased and negative opinions about groups that they are expected to protect, even in closed groups. Doing so seriously undermines trust and public confidence in the police.
31. The 1st report of Lady Elish Angiolini KC published on 29th February 2024 puts into context the seriousness of inappropriate language and behaviour in policing and sends a clear message to all police forces *“I hope that those in authority in every*

police force read this Report and feel galvanised to continue, and to accelerate, the work to secure the transformation of those organisations to ensure that no one feels comfortable expressing misogynistic, sexist or racist views while holding an office intended to protect those most vulnerable in society. As long as vile behaviour and deeply abusive language are normalised and accepted as ‘banter’ in policing culture and elsewhere, people like Couzens will be able to continue to commit atrocious crimes undetected. Many will say that Couzens’ crimes are a world away from the sexist and misogynistic behaviour that exists within policing, but they sit on the same continuum. Policing needs to grasp fully the extent of the cultural problems it faces and the way that this affects the public it serves. It needs to do more than make further changes to policies, guidance and training, although these are important and worthwhile. All policing leaders need to rethink fundamentally how they lead their organisations to ensure that certain types of behaviour, from the unacceptable to the criminal, are never tolerated.”

32. I do not in any way link this officers conduct with that of Wayne Couzens but the above quote indicates the seriousness of the problem in policing currently and the requirement for leadership (which must include proportionate and effective misconduct decisions) to “*grasp fully the extent of the cultural problems it faces and the way that this affects the public it serves*”.

Culpability

33. Counsel for the officer has made the following submissions in relation to culpability,
- a. *Whilst the acts of responding to and sending the WhatsApp messages were deliberate acts, they were not pre planned, neither were they targeted or intended to cause offence*
 - b. *The discriminatory consequence of responding to and sending the messages was unconscious*
 - c. *The behaviour was not dishonest and did not involve impropriety in relation to police powers/privileges or corruption*
 - d. *There was an imbalance of power between the participants of the WhatsApp chat.*

34. PC Horton admits that, responding to and sending the WhatsApp messages was intentional, which indicates high culpability.
35. PC Horton asserts that receiving and sending the messages was not “*pre-planned or targeted to intended to cause offence*”, and that “*the discriminatory consequence of responding to and sending the messages was unconscious*”. The AA rejects these contentions. The underlying themes of the messages are clear and are not subtle – they are obviously offensive in nature. I note that the **outcome guidance** is clear that “*Discrimination may involve language or behaviour. It may be directed towards members of the public or colleagues. It may be **conscious or unconscious***” (my emphasis).
36. To send the messages, PC Horton would have had to find the ‘meme’, save or download it, open WhatsApp, find PC McElroy’s contact, and send the item to PC McElroy. These actions were deliberate. These actions are not purely reactive or spontaneous and I therefore concur with the AA that there was an element of planning and deliberately distributing offensive and discriminatory material.
37. I accept that PC Horton did not intend to cause specific offence to PC McElroy by sharing the messages. However, I accept the AA’s contention that PC Horton’s suggestion that he was not aware that the messages were offensive or discriminatory is not credible. I do not accept his stance given the obvious derogatory and discriminatory nature of the content. Standard police training, all police policy and practices, the Code of Ethics and the acute national focus that has been directed at the police service in recent years relating to discrimination and racism is now well embedded in the thoughts and deeds of the vast majority of police officers. This is particularly so for officers who have joined policing in the last decade who have received specific and comprehensive training to address and prevent the behaviour admitted by PC Horton.
38. There have been significant high-profile cases and inquiries (Casey Initial report October 2022 and Angiolini Report February 2024) that have caused forces to double down on training and awareness that cannot have escaped the attention of rank and file officers. Many of these cases involve WhatsApp messages and

have received significant media attention. Some cases have national significance when the background to major offending by police officers has demonstrated a cultural acceptance and perpetuation of discrimination, inappropriate language and/or behaviour.

39. The officer gave oral evidence that he had received training in diversity, equality and inclusion as well as standards and ethics training in four organisations (including two police forces and HM Military). He explained that his training had included matters relating to unconscious bias, protected characteristics, how to deal with diverse people and issues and how to challenge behaviours both inside and outside the workplace. He also demonstrated a knowledge of internal reporting (whistleblowing) mechanisms and was clear that he has been trained '*not to discriminate*'.
40. I am fully satisfied, from the officer's oral evidence, that his training and awareness fully equipped him to act in accordance with the Code of Ethics and the Standards of Professional Behaviour, both on and off duty. He was properly trained and equipped to challenge inappropriate conduct and behaviour and well understood the expectations and requirements of the modern police service having completed his probationary training period between 2020 and 2022.
41. The messages sent and received by PC Horton were deliberately provocative, and in one case violent. The nature of the messages and memes identified vulnerable or marginalised groups in society, ridiculing, caricaturing, and mocking those groups because of their protected characteristics.
42. PC Horton states that he observed during his police career "*the vulnerabilities of policing generally ... and that policing more than ever became about humanity and compassion and looking after people ... I was proud to ... help the most vulnerable*". I agree with the AA that these statements are entirely incongruous with the nature of the messages that PC Horton both sent and responded to.
43. In this context, it is not plausible that PC Horton was unaware that the messages and the memes were discriminatory and offensive. The AA has serious concerns about PC Horton's ability to recognise the seriousness of his misconduct

considering his contention that the discriminatory nature of the messages was “*unconscious*” – I agree with this viewpoint, and it indicates either a low level of behavioural insight – or a deliberate or reckless disregarding of the comprehensive training he has received.

44. During the investigation PC Horton made the nebulous assertion that “*I believe that my actions may be attributable in part to a desire to fit in*” (emphasis added). PC Horton did not go so far as to assert that this was the reason for his action. As PC Horton himself states, “*there was no imbalance of power between the participants of the WhatsApp chat*”. He and PC McElroy were of equivalent rank irrespective of a wide service gap.
45. During his oral evidence PC Horton gave more clarity to his position at Merseyside Police and both himself and via Counsel indicated that he was shy, young in service, trying to fit in, in a large constabulary, and that with hindsight “*he should have challenged it*”.
46. I accept the AA’s submission that, in relation to PC Horton’s culpability the actions were entirely of PC Horton’s own free will. No one else is to blame or is responsible for his responses to PC McElroy’s messages, or for the sending of the messages himself. To be fair to the officer he accepts responsibility and does not attempt to deflect blame.
47. I accept that there was no dishonesty on the part of PC Horton and that his offences did not relate to police powers/privileges or corruption. I note that no criminality whatsoever is alleged in relation to the officer’s acts and omissions.
48. I concur with the AA’s assessment that PC Horton’s culpability is at the higher end of the scale.

Harm

49. Counsel for the officer has made submissions that in relation to Harm
 - a. *The acts were not operational and did not involve data misuse.*
 - b. *There were no persons directly affected by the misconduct and the content was confined to a private system*

- c. *The level of Harm should be tempered by what the public would think if aware of ‘all of the circumstances’.*
- d. *The acts have not resulted in any criminal proceedings.*

50. I have also been asked by the AA to consider the harm that would occur if the public became aware of PC Horton’s actions: (**Outcomes Guidance** para 4.66.)

51. This hearing has been held in public for reasons of transparency and public confidence. The nature of the admitted conduct, and the groups with protected characteristics targeted in the ‘memes’, is now a matter of public record. Public interest and opinion will be informed accordingly.

52. The potential harm of this officers behaviour in relation to public confidence and perception is therefore significant.

53. I accept the submissions from the officers Counsel that his actions were not operational and did not involve data misuse. I have however placed limited weight on Counsel’s submission about no persons being directly affected as by the officer’s behaviour. I have considered the potential impact of all the messages that were sent and received that are now in the public domain. This is a real consideration particularly among the groups/communities targeted in the messages.

54. The officer’s full offending behaviour is listed in the admitted charges above. However (with a little repetition of charges) to put some of his behaviour into context, I will provide some narrative relating to just the four messages sent by PC Horton that are subject of charge;

- a. On the 31st May 2023 the officer sent a WhatsApp messages to PC McElroy. The message depicted a woman ‘gagging’ or about to be sick. In text above the image were the words “*Phillip Schofield’s wife after realising that wasn’t Nutella on his cock*”. This message is clearly homophobic, very distasteful and conveys a crude scatological theme.
- b. On the 5th June 2023 the officer sent a WhatsApp message to PC McElroy containing an image of a group of stones. At the top of the image

was the text *“Pride Month in the Middle East”*. This appears to convey a violent homophobic theme of LGBTQ+ persons being ‘stoned’.

- c. On the 5th June 2023 the officer sent a WhatsApp message to PC McElroy with a picture of the black actor David Harewood wearing period costume. At the top of the image was text reading *“Netflix adaptation of Robin Hood. He steals ~~from the rich and gives to the poor~~”*. This has clear racist connotations and seems to infer that a black ‘Robin Hood’ would be more inclined to steal than a white depiction of this character.
- d. On the 27th June 2023 the officer sent a WhatsApp message with an image of the Titan Submersible with the late George Floyd’s face edited onto the front. At the top of the image was the text *“Gee I hope that lost submarine has enough oxygen”*. George Floyd, a black male, was murdered by a white police officer in the USA in May 2020 – he was fatally asphyxiated. The aftermath of this incident resulted in worldwide protests and his dying words *“I can’t breathe”* became a protest and rallying slogan. This racist meme is blatantly insensitive, and disrespectful, and for a police officer to share this image given the context of George Floyd’s murder and its aftermath, is outrageous.

55. It is the case that most, if not all, police officers in developed countries across the world are very aware of the acute sensitivities, including alleged police racism, arising from the tragic murder of George Floyd. This incident will negatively reflect upon policing for many years to come and this meme, circulated by a police officer is particularly disgraceful and damaging to a police service striving to improve standards and behaviour relating to racism and discrimination.

56. The AA considers that harm should be assessed at the higher end of the scale – I fully agree with this assessment.

Aggravating Factors

57. Counsel for the officer submits that, in relation to aggravating features;

- a. *The behaviour was not premeditated or predatory,*

- b. There was no malign intent such as sexual or financial gain, or personal advantage,*
- c. The officer did not seek to conceal the facts or blame others,*
- d. The behaviour is confined to a relatively short period of time; eight days during a three month period in the context of a now five year otherwise successful and exemplary career in the police force. Almost two years have elapsed since the messages were exchanged, and there has been considerable change in the life and circumstances of PC Horton.*

58. I accept that some of the above submissions are factual. The matter of timescale (point d.) does however indicate a pattern of behaviour over a reasonable period of time, as is proposed below by the AA.

59. The AA has suggested that the following aggravating factors, listed at para 4.76 of the **Outcomes Guidance** are engaged:

- a. regular, repeated or sustained behaviour over a period of time
- b. continuing the behaviour after the officer realised, or should have realised, that it was improper
- c. an element of unlawful discrimination
- d. failure to raise concerns or seek advice from a colleague or senior officer
- e. scale or depth of local or national concern about a particular issue
- f. multiple proven allegations and/or breaches of the Standards of Professional Behaviour.

60. With reference to PC Horton's Regulation 54 response and his Counsel's submission, the AA appropriately suggests that absence of an aggravating factor should not be construed as a mitigating factor. I agree with the AA that the issues listed above are pertinent aggravating factors relating to the officer's offending behaviour.

61. I also consider that the officer's actions were an abuse of the trust placed in him and his position, given the expectations of the police service. His actions constitute a significant departure from his oath of office. The oath PC Horton swore on appointment was; *"I do solemnly and sincerely declare and affirm that I will well*

and truly service the Queen in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law”.

Mitigating Factors

62. Counsel on behalf of the officer has submitted that;

- a. The officer was open and transparent in providing an account for his decisions at an early stage, prior to the interview under caution,*
- b. The officer made full and frank admissions in interview under caution,*
- c. The officer provided honest and truthful representations when answering for his actions,*
- d. There is evidence of genuine insight and remorse, a desire to take responsibility and effect lasting change. This is evidenced in the completion of the Code of Ethics course in October 2024.*
- e. He accepts full responsibility and is not seeking to attribute blame elsewhere.*
- f. He does not seek to minimise his involvement and chose to make full and frank admissions.*
- g. He has shown insight.*
- h. Is otherwise of exemplary character.*
- i. Has vowed to never let himself or the police service down again.*

63. The officer also lists similar mitigating factors in his Regulation 54 response. As regards evidence of genuine insight, the AA repeats his submissions as to the incredibility of PC Horton’s contention that he was not aware of the discriminatory nature of the messages. I agree with this assessment as things stood at the time of the offending behaviour. I do note positive action taken since the offending to improve his understanding and awareness notably in the form of relevant podcasts, reading and attending (on a voluntary basis) a Code of Ethics training session. These are positive actions but given the nature of the officer’s conduct,

and the obvious spectre of pending misconduct decisions, remedial training could have been far more comprehensive and structured.

64. The AA points out that “*mental ill health, disability, medical condition or stress that may have affected the officer’s ability to cope with the circumstances in question*” are inferred as a mitigating factor: Outcomes Guidance Para 4.81.
65. PC Horton states that “*there were events in my personal and professional life in 2022, which, on reflection may have contributed to my behaving uncharacteristically in the first half of 2023. In December 2022 I was forced to admit to myself and my wife that I had acquired an unhealthy relationship with gambling...*” [25/14]. He further states that “*On Christmas Eve, 2022, I was involved operationally in the immediate aftermath of a fatal gang shooting. I provided CPR to an injured female who tragically did not survive. This affected me more than I would like to admit and I speculate now upon whether this may have contributed to my uncharacteristic and reckless behaviours in responding to and sending crude and discriminatory material in the WhatsApp chat*” [25/15].
66. The AA has expressed sympathy for PC Horton’s experiences in providing CPR to an injured woman who did not survive. However, the AA does not consider that this experience, or PC Horton’s gambling problem, can properly be construed as defining mitigating factors for his conduct. I agree with this assertion, but I have considered all the matters the officer has raised and note the difficult experiences and challenging incidents he has been involved in.
67. PC Horton’s opinion in relation to his medical condition is clearly of limited worth. He has provided no evidence from an appropriately qualified medical professional that he was suffering from a recognised causational mental health condition. I therefore place low reliance on this being a mitigating factor of significance.
68. The officer has provided no evidence that his mental health at the relevant time would have caused or contributed to him sending, in his own words, “*crude and discriminatory material*”. It is not clear how there could be any direct correlation between PC Horton’s operational experience and him sending and positively responding to transphobic, homophobic, racist, sexist, and violent messages.

69. I accept the AA's contention that PC Horton does not truly comprehend the seriousness of his misconduct, and despite his early admissions to the irrefutable evidence of having sent the offending messages, still does not take an appropriate level of responsibility for his conduct. I do however, after listening to the officer's oral evidence, consider that he now has more insight into the nature and impact of his offending behaviour than previously. Given the obvious failure of the officer to accept the full consequences of his actions, I do not consider that his current insight is at an acceptable level.
70. I have fully considered and accept the officer's response to the investigation and interviews. He accepts direct responsibility for his actions and has made significant admissions (albeit against incontrovertible evidence) for which he is given credit. Importantly, he is of otherwise exemplary character.
71. I have also read and fully considered the character references that have been provided on behalf of the officer. I have very much taken these into account and note particularly the Supervisors references and those relating to his Military service. There is no doubt he is held in high regard by his supporters. Counsel for the officer made specific mention of the officer receiving a positive reference from his previous Chief Constable. This letter sent on the 22nd September 2023 from Merseyside Chief Constable Kennedy to the officer was however a standard letter sent to all officers transferring out of the force and was not a personal reference. The officer transferred to Dyfed Powys Police three days later, on the 25th September 2023.
72. The **outcomes guidance** at para 6.1 quotes LJ Kay in the case of Salter, "*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*".

Sanction

73. It is very unfortunate to have heard the allegations against this officer. I am sure that many observers would have expected the service to have already effectively

addressed this sort of discriminatory behaviour, given its negative impact and prevalence and the extent of media coverage/national attention it has received.

74. Having assessed the seriousness of the misconduct and keeping in mind the threefold purpose of imposing outcomes in police misconduct proceedings, I now must determine the most appropriate outcome that addresses the purposes of the regime (as outlined at the start of this document).
75. I am reminded in the **outcomes guidance** of the case of Bolton V Law Society [1994] *“To maintain the 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 – a professions most valuable asset is its collective reputation and the confidence which that inspires”*
76. The AA also reminds me that in determining the appropriate disciplinary action, I should;
 - a. Have regard to the seriousness of the misconduct by reference to the officer’s culpability for the misconduct, the harm caused by the misconduct, and the existence of any aggravating or mitigating factors
 - b. Keeping in mind the purpose of imposing disciplinary action
 - c. Choose the disciplinary action which most appropriately (and proportionately) fulfils that purpose for the seriousness of the conduct in question
77. There are strong public interest and public confidence considerations in this case due to the blatant targeting of persons with protected characteristics, as well as clear direction from the **outcomes guidance** such as (6.6);
 - a. 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.

76. In relation to first considering the appropriateness of a final written warning (**FWW**) as a potential sanction – In addition to any other matters listed above, including aggravating and mitigating factors, I have particularly taken into account the following when considering a lesser sanction than immediate dismissal;
- a. This may not be the worst case of offensive behaviour towards groups with protected characteristics that has occurred within UK policing – worse have been identified but the messages still clearly cross the threshold and, as is fully admitted by the officer, they should be correctly classified as Gross Misconduct. They are accepted by the officer to be “*appalling*” and *repugnant*” and are serious misconduct breaches as outlined earlier.
 - b. The messages directly target vulnerable minorities and persons protected by the Equalities Act. Any discrimination is deemed to be serious misconduct.
 - c. The public interest in how we deal with this sort of police misconduct is high and to retain an officer with proven gross misconduct of a discriminatory nature is unlikely to build public confidence in police misconduct procedures particularly among groups with protected characteristics.
 - d. This type of behaviour has been seen, all too often, across the UK and a number of 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.
 - e. The sanction outcome needs to maintain high professional standards and make it clear to officers/staff that challenging inappropriate behaviour from others is a requirement and that discriminatory behaviour, on or off duty, is not to be tolerated.
 - f. A **FWW** can be issued for up to 5 years. An officer subject to a **FWW** could be working for a period where the facts of the finding could, in certain circumstances, be disclosable in civil or criminal proceedings (or

indeed after the completion of the warning period). 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 scarce and expensive police resources. Certain misconduct findings, such as discrimination and dishonesty (not alleged in this case), 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.

- g. The officer, if allowed to continue to serve, with a **FWW** could have a 25-year career ahead of him costing the taxpayer many millions 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.
- h. The officer's conduct is contrary to significant training and awareness he has received in three organisations (including the Police and HM Forces). This training specifically equips the officer with the skills and awareness to deal with groups with protected characteristics, to challenge inappropriate behaviour, to understand the impact of his actions and how not to discriminate against others. He chose not to follow his training, nor adhere to the clearly understood expectations of the police service.

77. I have therefore carefully and fully considered and discounted the lesser sanction outcome of a Final Written Warning, taking into full account all the mitigating factors raised by and on behalf of the officer. I determine that only a sanction of immediate dismissal is commensurate and appropriate with the stated objectives of the misconduct regime, for the reasons I have outlined above.

78. I have addressed the officer's insight elsewhere but must document an issue that occurred immediately after the conclusion of the delivery of the sanction decision. The officer stated to the Chair of the hearing, "*you've ruined my life*". This may have been an 'emotional release' but it indicates a notable lack of insight into the officers admitted and proven conduct and the consequences thereof.

79. I invited representatives from both the AA and the officer in respect of inclusion of the officer's details within the Police Barred list (Regulations 3(2)(1) and Police Advisory List Regulations 2017 none were received, and I therefore direct that the officers name be placed on the Police Barred List.
80. 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.

Ian Arundale QPM
Misconduct Hearing Chair
Dyfed Powys Police

12th March 2025