

MISCONDUCT HEARING

KENT POLICE

IN THE MATTER OF PC 30359 WADE

OUTCOME DECISION

(Hearing: 21-24 September 2026)

1. These are police misconduct proceedings relating to PC 30359 Wade (“the Officer”) under the Police (Conduct) Regulations 2020 as amended.
2. The allegations pursuant to Regulation 30(1)(a)(ii) are as follows:
 1. *On 23 May 2022, PC 30359 Patrick Wade joined Kent police. At the material time the Officer served on a CID team based at Medway police Station.*
 2. *The 2024 Code of Ethics requires officers to act with dignity, respect, patience and courtesy; to listen to and understand different perspectives; to recognise the effect of emotions and vulnerability; to respond to individual needs; and to be fair and impartial. It also stresses the importance of professional boundaries.*
 3. *As a police officer serving on a criminal investigation team, the Officer was fully aware of the expectations in relation to his conduct.*

Background Facts

4. *In October 2024 PC A and the Officer began to work on the same team. They became close friends and were in frequent contact, in and outside of work.*

5. *On 10 November 2024 the Officer told PC A by message that he had feelings for her. PC A made clear to the Officer that she did not feel the same way and that she had just started seeing someone else. Over the following weeks the Officer repeatedly told PC A that he loved her and that he wanted a relationship with her. PC A did not at any time tell the Officer that his feelings were reciprocated.*
6. *On 20 January 2025 the Officer and PC A met for coffee and discussed his feelings for her. PC A told the Officer words to the effect that sex between them would be a risk because it would mean crossing a boundary that could not be crossed back. That evening the Officer sent PCA a long message in which he stated, "Yes, I'd love to have sex with you, I've made that clear but I'm not trying to convince you to do anything. I'd want it to happen because you want it to happen."*
7. *The Officer knew that his feelings for PC A were not reciprocated. He knew that she trusted him as a confidante.*
8. *In the late evening of 20 January 2025, the early hours of 21 January 2025, PC A was feeling very unwell. She contacted 111 and they advised her to go to Accident and Emergency. She was in too much pain to drive herself and consequently the Officer drove her to the hospital.*
9. *At about 1.00am on 21 January 2025 the Officer drove PC A to the Accident and Emergency Department at Medway Maritime Hospital. PC A had abdominal pain and suspected appendicitis. She remained at the hospital for approximately 18 hours.*
10. *Whilst at the hospital PC A was unwell, in pain, emotional and exhausted. She collapsed after a blood test and had a cannula inserted. She was told that she might require surgery, which frightened her. The Officer remained with her throughout and was aware of her condition. In particular, the Officer was aware that:*
 - a. *PC A was in pain.*
 - b. *PC A had passed out when her blood was taken.*
 - c. *PC A was lethargic.*
 - d. *PC A was scared.*
 - e. *PC A had other challenges in relation to her family.*
 - f. *PC A was in turmoil in her emotional relationships.*

Consequently, PC A was vulnerable and the Officer was aware of that fact.

- 11. At about 8.00am PC A was moved to the surgical assessment waiting area, where she fell asleep in a chair. She had her headphones on and her hood up. Whilst PCA was asleep, the Officer leant over and kissed her on the lips.*
- 12. PC A was woken by the Officer kissing her. She did not react. The Officer continued to press his lips against hers; the kiss lingered and was not a peck.*
- 13. PC A had not consented to being kissed. She was asleep and could not consent.*
- 14. Later, in the smoking area outside the hospital, the Officer hugged PC A, bent down and kissed her on the lips, a lingering kiss. PC A reciprocated because she felt uncomfortable confronting the Officer. She said to him afterwards words to the effect of 'we shouldn't do that' or 'that's a bad idea'.*
- 15. PC A was discharged from hospital at about 4.00pm without requiring surgery. The Officer drove her home, stopping at a McDonald's on the way, and parked outside her home.*
- 16. The Officer asked PC A whether he could come into her house and have a nap in her bed. PC A said no.*
- 17. The Officer then:*
 - a. placed his hand on PC A's thigh; and/or*
 - b. kissed her and/or*
 - c. suggested that they go somewhere, saying words to the effect of 'let's pull up somewhere'; and/or*
 - d. when PC A said that it was a bad idea, said words to the effect of 'nothing with me is a bad idea'; and/or*
 - f. leant towards her and, whispering in her ear, kissed her on the lips again and said words to the effect of 'I know you want me, I know you want this'; and/or moved his hand to her groin and rubbed her vagina over her clothing; and/or*

g. suggested having sex with PC A.

PC A did not consent to that touching.

- 18. PC A told the Officer that she had been at the hospital for 18 hours, that she was sweaty, that she had been crying all day and that she just wanted to eat her food and go to bed. She took her food, got out of the car and went into her house.*
- 19. As PC A walked away, the Officer shouted at her from the car window 'I'll fight for you.'*

Particulars of Misconduct

PC Wade, the Appropriate Authority alleges that you breached the Standards of Professional Behaviour; in particular the standards relating to:

Authority, Respect and Courtesy

In that you failed to act with self-control and respect toward, and failed to treat with courtesy, your colleague PC A; and you subjected her to unwanted conduct and/or unwanted conduct of a sexual nature — kissing her whilst she was asleep, kissing her, touching her thigh, touching her vagina over her clothing and propositioning her for sex - conduct which had the purpose or effect of violating her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, as set out at paragraphs 11, 12, 14, and 17 above.

Discreditable Conduct

In that your behaviour as set out in the Particulars of the Allegation and Particulars of Misconduct has discredited the police service and/or undermined public confidence in it.

Characterisation

It is alleged that these matters individually and/or collectively amount to gross misconduct, namely a breach of the Standards of Professional

Behaviour that, if proved, is so serious that your dismissal would be justified.

3. The parties were represented as follows: Ms Hinton for the Appropriate Authority (“AA”) and Mr Lee for the Officer. We want to thank both of them, and the teams behind them, for their very able assistance in what has been a difficult case.
4. The Panel has heard detailed live evidence from PC A and the Officer. In addition the panel has read the statements of Mr Reynolds, PC Clarke, PC Hall, PC Stevens, DS Price, PC Wren, PC Corbishley, DC Jeffrey, PC Adams as well as various other accounts provided by officers albeit not in MG11 format. We have also read and had regard to the Officer’s two interviews under caution.
5. We have carefully considered the entire body of evidence in coming to our conclusions on the facts. The fact that we do not refer to any particular piece of evidence does not mean we have ignored it or forgotten about it. Our decision focuses on the key points that have informed our ultimate conclusions but we have had regard to the totality of the evidence adduced in this case, both oral and documentary, in coming to those conclusions.
6. The Panel has also had regard to the directions provided to us by our Legal Adviser (Mr William Hansen). These were discussed and agreed with Counsel and are contained in a separate written document. However, so that the reader of this document does not have to cross-refer to that document, we set out below the directions we received. They were as follows:

Legal directions:

1) The burden and standard of proof.

The burden of proof is on the Appropriate Authority (“AA”). The standard of proof is the normal civil standard, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the Panel is satisfied by the evidence that it is more likely than not that the conduct occurred. The standard is a single unvarying standard (i.e. there is no sliding scale). The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when weighing the probabilities and deciding on balance whether the conduct occurred.

2) Identification of the issues in the case.

The issues in the case are those set out in the Regulation 30 notice. The key issues in the case relate to consent and whether PC A consented to being kissed on the occasion referenced in paragraphs 11-13 of the Regulation Notice and whether she consented to being kissed and touched sexually on the occasion referenced in paragraph 17 of the Regulation Notice.

3) Task of Panel

Having considered the totality of the evidence, and the issues in the case, the task of the Panel is to:

- (i) determine the facts on the balance of probabilities, the burden of proof being on the Appropriate Authority;*
- (ii) decide whether on the facts found the conduct has breached the Standards of Professional Behaviour and if so which standards and why;*
- (iii) decide whether the admitted or proven breaches amount to misconduct or gross misconduct and*
- (iv) decide what the outcome should be.*

4) Staged decision making.

The panel should proceed in 2 stages. At stage 1, pursuant to regulation 41(15) of the Conduct Regulations, the person(s) conducting the misconduct proceedings must: ‘[...] review the facts of the case and decide whether the conduct of the officer concerned amounts to misconduct, gross misconduct or neither’.

If the case against an officer is proven as (at least) misconduct, then disciplinary action will follow and the appropriate outcome from the available outcomes must be decided upon. However, before any decision on outcome is made, the panel will need to hear further submissions on outcome, and consider the officer's record and any personal mitigation. That will occur at Stage 2 after the panel have come back with their stage 1 findings."

5) *The relevant Standard(s) of Professional Behaviour*

The Standards in play in this case are (i) Authority, Respect and Courtesy and (ii) Discreditable Conduct. Reference should be made to Schedule 2 of the Police (Conduct) Regulations 2020 (as amended) for the content of each of these standards.

It is alleged by the Authority that in assessing whether the alleged conduct, if proven, had the purpose or effect of violating PC A's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, your assessment should take into account both subjective and objective factors. The subjective factors will include: Was the contact in fact unwanted? Was PC A's dignity violated? Did the Officer's conduct in fact create an "intimidating, hostile, degrading, humiliating or offensive environment"? The objective factors include: Can any unwanted conduct (if proved) reasonably be said to have violated PC A's dignity or created the specified environment?

6) *The definition of misconduct and gross misconduct*

Misconduct is generally defined as unacceptable or improper behaviour. In the context of the Police (Conduct) Regulations, it is defined as follows...

"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;

Where the panel is considering more than one allegation against the same officer at a misconduct hearing, it may take the allegations together. They can treat them as a single allegation for the purposes of making an assessment, a finding, a determination or a decision in connection with conduct that is the subject matter of an allegation.

7) Consent.

PC A said she did not consent to the Officer kissing her on the occasion referenced in paragraphs 11-13 of the Regulation 30 Notice and did not consent to the kissing and sexual touching referenced in paragraph 17 of the Regulation 30 notice.

The Officer said she was clearly consenting and she actively and willingly participated. He said she did not say or do anything which would have led him to believe that she was not consenting. You may think that the issue of consent is the most important area of dispute in this case for you to resolve.

My core directions on the issue of consent are as follows:

- (i) The AA must prove that PC A did not consent to the sexual activity alleged.*
- (ii) A person consents to something if they agree to it and they are capable of making a choice and are free to do so.*
- (iii) An absence of consent can arise by reason of mere lack of agreement but also by a lack of capacity owing to unconsciousness or sleep;*
- (iv) Consent can be given enthusiastically or with reluctance, but it is still consent.*

In short, PC A would have consented to kissing and/or sexual touching by the Officer if she agreed to it by choice.

Both parties invite you to decide whether or not PC A was consenting in the sense of freely choosing to kiss the Officer in and outside of the hospital and/or be touched sexually by him in the car. Neither party invites you to go on to consider the issue of reasonable belief in consent in deciding whether the allegations of unwanted kissing and/or sexual touching have been proved, but both parties accept that that issue is relevant to the issue of seriousness.

In considering issues of consent, the tribunal should remind itself that consent is not a transferable commodity. The fact that PC A may have consented to kissing or sexual touching on other occasions does not necessarily mean she should be taken to have consented on 21.1.25. But it is a factor that you can consider when deciding whether you are satisfied she did not consent on 21.1.25. A person who has freely consented to kissing and/or other sexual contact with someone in the past does not, as a result, give general consent to kissing and/or other sexual contact with that person on any other occasion. Each occasion is specific. A person may want to be kissed or to have sexual

contact with someone on one occasion, but not at another time and will not consent to it.

Further, you should also bear in mind just because PC A may have willingly engaged in kissing the Officer outside the hospital on 21.1.25, if such is your finding this does not mean PC A must have wanted to go on to the sexual touching that she says took place in the car on the journey back from the hospital and must have consented to it. A person who engages in sexual activity is entitled to choose how far that activity goes. The fact that PC A may have willingly engaged in kissing the Officer does not mean that she must have wanted to be touched on her vagina by the Officer as she alleges happened.

You must decide these issues by looking at all of the evidence, including all of the evidence of what happened on the day itself.

8) *Separate Findings*

You need to consider each of the key allegations separately bearing in mind the Standards invoked and the fact that a number of the particulars of the alleged misconduct are in the form “and/or”.

9) *Findings must be evidence based on evidence, including inferences properly drawn from the evidence, and not conjecture or speculation.*

The Panel will base its findings of fact on the evidence which it accepts as reliable and accurate. As the Panel considers the evidence, they may draw inferences from the evidence – that means they can come to common sense conclusions based on the evidence. They will not, however, speculate as to what other evidence there might or might not have been. There is no place for speculation or conjecture.

10) *Assessment of witnesses being a matter for the Panel*

It is for you to judge the credibility of the witnesses. You saw and heard the key witnesses and have been taken through the documentary evidence. It is for you to decide what weight to give to the evidence. It is helpful, when considering the credibility of witnesses, always to test their veracity by reference to the objective facts proved independently of their testimony, in particular by reference to the documents in the case, and also to pay particular regard to their motives and to the overall probabilities.

In assessing credibility, the Panel should also have regard to the fact that we often believe memories to be more faithful than they are. Two common errors are to

suppose (1) that the stronger and more vivid the recollection, the more likely it is to be accurate; (2) the more confident another person is in their recollection, the more likely it is to be accurate.

In fact, memories are fluid and malleable, being constantly rewritten whenever they are retrieved. This is even true of 'flash bulb' memories (a misleading term), i.e., memories of experiencing or learning of a particularly shocking or traumatic event.

Events can come to be recalled as memories which did not happen at all or which happened to somebody else.

The best approach from a judge is to base factual findings on inferences drawn from documentary evidence and known or probable facts.

It is essential, when considering the credibility of witnesses, always to test their veracity by reference to the objective fact proved independently of their testimony, in particular by reference to the documents in the case, and also to pay particular regard to their motives and to the overall probabilities.

It is an error of principle to ask 'do we believe a witness' before considering the documents. Sole or very significant reliance on a witness's confident demeanour is a discredited method of judicial decision making.

The following is intended only as some guidance as to how you might approach the matter.

- *Use your common sense and knowledge of the world and human affairs;*
- *Consider how far the witness's evidence was consistent internally (i.e. did it hang together and make sense)*
- *Consider whether the witness's evidence is supported by other evidence from a source independent of the witness; how far was the witness's evidence consistent or inconsistent with other evidence which you accept?*
- *Consider how far the witness's evidence is consistent with the documentary evidence, and in particular the contemporaneous documentary evidence*
- *You may consider the witness's demeanour, especially when faced with the more probing questions asked in cross-examination, but do not place too much reliance on demeanour as it often an unreliable basis for assessing credibility.*

11) Hearsay.

The evidence contained in the statements that were read is hearsay evidence. Hearsay is admissible in disciplinary proceedings of this kind. In estimating the weight (if any) to be given to hearsay evidence the panel shall have regard to

any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.

Regard may be had, in particular, to the following—

- (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness;*
- (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;*
- (c) whether the evidence involves multiple hearsay;*
- (d) whether any person involved had any motive to conceal or misrepresent matters;*
- (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose;*
- (f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight.*

12) The “good character” direction

You have heard that the officer is a man of good character, that he has no previous convictions or cautions, or misconduct findings having been a police officer since 2022. Of course, having a good character is not a defence to these allegations. But it is an important matter which you must take into account in the officer’s favour in two quite distinct ways.

First, the officer has given evidence. As with any person of good character, the fact that he is of good character supports his credibility as a witness. It does not mean that you have to accept his evidence, but you must take it into account as an important factor in his favour. The same applies to answers given by the officer during his police interview. You should bear in mind that these answers were given by a man of good character and take that into account in his favour when assessing the credibility of those answers.

Second, the fact that the officer is a man of good character is some evidence making it less likely that he did what he is alleged to have done. Again, that is not a reason in itself to dismiss the case against him, but it is an important

factor that you must take into account in his favour in deciding whether or not the AA has proved the case against him on the balance of probabilities.

- 13) Avoiding judgments based on assumptions. Insofar as the panel may have had ideas about what a person will do or say if she has been the victim of unwanted sexual touching or kissing, I advise you that there is no typical reaction. People will react in different ways. There is no “normal” reaction to unwanted sexual touching or kissing. Some people will immediately protest or complain to family, friends or the authorities. Others may not. Some will show emotion or distress and may cry. But other people will seem very calm or unemotional. You should avoid making an assessment based on any preconceived idea you may have about how you think someone should behave in this situation. Put aside any assumptions you may have had and make your judgment based only on the evidence which you have heard.*
- 14) Avoiding judgments based on displays of emotion. Some of the witnesses who gave evidence to you became distressed and emotional. People react in different ways when coming to court or a disciplinary hearing to give evidence. It is possible for a witness to become distressed when giving evidence whether or not their account is true. The presence or absence of emotion when giving evidence is not a reliable indication of whether the person is telling the truth and being accurate, or not. When you consider the emotional state of PC A you need to bear this in mind.*
- 15) What PC A told others. There is evidence in the bundle about what PC A told others about the allegations. Some of this material is said to support her account, whilst other parts are said to be inconsistent. It is for you to decide whether this evidence shows a degree of consistency or indeed a lack of consistency. You are entitled to consider this evidence in coming to an overall conclusion on PC A’s credibility. However, bear in mind that what PC A told others is not independent evidence. It does not come from an independent source. She is the source of the evidence to you; she is also the source of any complaint she made to others and indeed the source of what others have said about what she told them. Evidence of what she told others does not make it any more likely that the allegation is true. Insofar as you may find a lack of consistency, this does not necessarily mean that her evidence is untrue. Experience has shown that inconsistencies in accounts can happen whether a person is telling the truth or not. This is because if someone has an experience such as the kind alleged in this case, their memory may be affected in different ways. It may affect that person’s ability to take in and later recall the experience. Also, some people may go over an event afterwards in their minds many times and their memory may become clearer or can develop over time. But other people may try to avoid thinking about an event at all, and they may then have difficulty in recalling the event accurately. Your assessment of*

this factor will be influenced by your conclusions as to the facts of this case. You must form a view of what happened in this case based on all the evidence you have heard and read, including the contemporaneous documentary evidence upon the Officer relies. I am explaining these points so that you think about them in your deliberations. I am not expressing any opinion. It is for you to decide whether or not PC A's evidence is true. To answer this question, you must look at all of the evidence. This includes any inconsistencies. And you must decide what effect these have on her truthfulness. If you are satisfied on the balance of probabilities that any part of PC A's account is true, then you can rely on it in reaching your decision. But if you are not so satisfied, you must not rely on it coming to your conclusions.

16) Delay. There is no classic or typical response to alleged unwanted sexual contact. The fact that a complaint comes late does not signify a false complaint, just as an immediate complaint does not signify a true complaint. The timing of PC A's formal disclosure is an important matter for you to consider, particularly in relation to the defence case, namely that these allegations are false and have been made because the Officer had moved on and was no longer expressing a romantic interest in her. She says there is no connection between the two. That is a matter for you. More generally, in considering the question of delay, you should look at all the circumstances. This includes the reason PC A gave for not making a formal disclosure immediately. Different people react to situations in different ways. Some people may tell someone about it straight away. But others may not feel able to do so. This can be out of shame, shock, confusion or fear of getting into trouble, not being believed, or causing problems for other people. It is your job to consider whether or not any of those things affected PC A's decision not to make a formal disclosure earlier and whether or not that impacts upon PC A's reliability as a witness. I am explaining these points so that you will think about them in your deliberations. I am not expressing any opinion. It is for you to decide whether or not PC A's evidence is true.

7. The Common Ground. There was much common ground, at least in relation to the background facts and indeed in relation to some of the core underlying facts. Thus, the fact of the kissing and sexual touching is admitted; the important dispute is around consent. In a helpful note provided to us on the first morning of the hearing and adopted by the Officer, Counsel for the Officer identified the allegations that were agreed. The matters set out in paragraphs 1-4 of the Regulation 30 Notice were agreed. The first sentence of paragraph 5 was agreed. The remainder of that paragraph was not agreed, the Officer maintaining that PC A did not make her position clear in terms of her feelings for the Officer. Paragraph

6 was agreed. Paragraph 7 was disputed. The Officer maintained throughout his evidence that PC A was equivocal as to her feelings and left open the possibility of a relationship. Paragraphs 8-10 were agreed with limited qualifications as follows: PC A's pain was intermittent rather than being present for the entire 18 hours; PC was vulnerable but not legally vulnerable and she had capacity. Paragraph 11 was admitted with the important qualifications that the Officer maintained PC A was not asleep at the time and that she reciprocated and kissed him back, leading to further consensual kissing during the hospital stay. His case was also to the effect that the first kiss had been preceded by physical closeness, with PC A hugging him, leaning her head on his shoulder, wrapping herself round his arm, lying with her head in his lap. Paragraphs 12-14 were disputed. Following the first kiss, the Officer maintained PC A kissed him back. The allegation in paragraph 13 that PC A was asleep at that moment, did not consent and could not consent was disputed. In relation to the kiss referenced in paragraph 14, the Officer maintained that there was nothing reluctant about PC A's reciprocation. Paragraph 15 was agreed. Paragraph 16 was denied, albeit the Officer accepted suggesting going somewhere else. In relation to paragraph 17, sub-paragraphs a-b were admitted; paragraph c was effectively admitted, albeit with a minor difference of recollection about what was said; sub-paragraph d was disputed in part, but it was accepted that PC A had said it was a bad idea; sub-paragraph e was denied; sub-paragraph f was agreed, and the Officer suggested that while he touched PC A's thigh, she opened her legs which he took as an invitation to continue touching her; sub-paragraph g was essentially accepted. It was denied that any of the activity was without consent and the point was made that when PC A said it was a bad idea, he stopped. Paragraph 18 was essentially admitted but the point was made that PC A only said these things after they had stopped mutually kissing. Paragraph 19 was admitted. Any breach of the Standards was denied, as was any allegation of misconduct or gross misconduct.

8. The Issues. Against that background, the key issues that arise out of the Regulation 30 notice for decision at Stage 1 are as follows:

- (1) Did the Officer kiss PC A without her consent in the surgical assessment area at Medway Maritime Hospital on the morning of 21 January 2025 as alleged in paragraphs 11-13 of the Regulation 30 Notice ? ("Allegation 1")

- (2) Did the Officer kiss PC A in the smoking area outside the hospital at a time when she was vulnerable and/or in circumstances where by reason of her vulnerability she felt uncomfortable confronting the Officer ? (“Allegation 2”)
- (3) Did the Officer kiss and touch PC A sexually without her consent as alleged in paragraph 17 of the Regulation 30 Notice? (“Allegation 3”)
9. In the light of our conclusions on those issues, we will then have to decide whether the Officer’s admitted and/or proven conduct amounts to a breach of the Standards relating to Authority, Respect and Courtesy and/or Discreditable Conduct and if so whether the admitted and/or proven breaches amount to misconduct or gross misconduct. Notwithstanding the absence of any pleaded case which in terms alleges harassment, the Regulation 30 Notice also alleges that the Officer’s conduct had the purpose or effect of violating PC A’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her and so we will need to make findings in that regard too.

Our assessment of the witnesses

10. This has been a difficult case to decide where the truth lies on the critical incidents. We therefore propose to begin with our assessment of the witnesses because this has shaped our ultimate conclusions.
11. It is noteworthy that neither Counsel launched a wholesale attack on the credit of either PC A or the Officer. Whilst Ms Hinton was more critical of the Officer’s evidence, particularly on the critical incidents, she did not condemn him outright as dishonest or unreliable. Mr Lee too was careful not to suggest that PC A was dishonest. Rather he suggested that her evidence was unreliable, referred us to the directions contained in paragraph 10) of the Legal Directions and submitted that this was a case of distorted memory. Mr Lee put it this way in his Skeleton Closing Submissions:

“This is the nature of the challenge to PC A’s evidence. I do not submit her evidence was a malicious lie. It was an emotive issue, in which PC A’s memory has been subjected to strong biases by the very nature of these disciplinary proceedings.

People are likely to be most prone to unreliability when it comes to highly emotive issues and close relationships, particularly where there has been an acrimonious split of some kind”.

12. However, PC A and the Officer cannot both be right on the essential matters in issue. In deciding where the truth lies, and in the absence of any particularly helpful contemporaneous documents, we have been guided in large part by our assessment of PC A and the Officer as witnesses.
13. Neither witness was easy to assess. Having reflected on the guidance given to us by the LQA about assessing evidence, and carefully assessed the evidence of PC A, we are unpersuaded that this is a case of memory distorted by emotion or biases. So far as PC A's evidence is concerned, this is not in our judgment a case of distorted or rewritten memory where one party's memory has played tricks on them due to the emotive nature of the issues. We have also considered whether PC A was honest but mistaken in relation to one or more of the key incidents. But we were struck by the fact that PC A gave consistent evidence which hung together and made sense. She gave her evidence in a straightforward manner without evasion or deflection. It was not directly contradicted by any of the contemporaneous documents. Insofar as the Officer relied on the untested evidence of other officers which we read to suggest that PC A was unreliable, we have had regard to the directions on hearsay but decline to place any significant weight on this untested evidence. We have also been careful not to assess the evidence in silos or divorced from its context. We have stood back and looked at the totality of the evidence on both sides in the round and drawn upon all available relevant indicators as to whether each witness's account is reliable, including the inherent probabilities and our overall impression of the characters and motivation of the two key witnesses. Having done so, we take the view that PC A was an honest and reliable witness. We asked the Officer why she would have made up these allegations and he could think of no reason for her to do so. We formed the firm view that she had no particular animus towards the Officer and if anything minimised the effect of his behaviour on her. We note she did not directly report the incident herself. She made a disclosure to other officers who then reported the matter to PSD. She was anything but zealous in her pursuit of these allegations. We are unpersuaded by Mr Lee's point that the lack of corroboration means that we should reject PC A's evidence on the critical events.

14. The Officer was a problematic witness. Whilst much of his evidence accorded with that of PC A, they parted company significantly on the critical facts and issues. What struck us most was that the Officer was very much focused on his own needs, wants and desires. This is not to say that he did not provide valuable emotional support to PC A. Nor is it to suggest that she did not value his support. But she did not want an intimate or sexual relationship. Turning to the events of 21 January 2025, this disconnect between the two of them became striking. PC A was vulnerable and valued the comfort and emotional support provided by the Officer whilst at hospital but was emphatically not in the mood for kissing or sexual contact or indeed conversations about relationships. But the Officer remained very much focused on his desire to get intimate with PC A and saw the opportunity to do so whilst PC A was in a vulnerable state. He wanted to kiss her and get intimate with PC A and prioritised his own needs and wants over PC A's welfare. All his evidence has to be viewed in this context. It means that where the protagonists differ, we prefer PC A's evidence.
15. Both sides took us through a number of the Whatsapp messages in a voluminous bundle as shedding light on the nature of the relationship generally, but also on the critical events at the heart of this case. We would make these observations. Firstly, Whatsapp was only one of the social media messaging systems that the two of them used; it is not a complete record of their online messaging because many of the exchanges were on Snapchat, Instagram and TikTok (which we have not seen). Secondly, they both accepted that they communicated at length on the phone and/or in person over coffee. Thirdly, the Whatsapp messaging, with one exception (referenced below), does not in our assessment actually shed much light on what happened on 21 January 2025. Fourthly, Whatsapp messages between the protagonists and others, in particular those between the Officer and a friend called Emmie, do not assist us in resolving the critical issues of fact.
16. We would also make these observations. Mr Lee, in particular, emphasised the jurisprudence about the importance of ascribing weight to the contemporaneous documents in coming to any conclusions. But our view is that there is little assistance to be gained from the contemporaneous documents and little assistance to be gained from the untested evidence of the witnesses whose statements were read. We decline to place any weight on this evidence where it conflicts with the evidence of PC A and decline to find any significant corroboration for the Officer's account in any of this evidence.

Our findings

17. The Officer joined Kent Police in May 2022. The Officer and PC A started working on the same CID team together in October 2024 and quickly became close friends. On 10 November 2024 the Officer told PC A that he had feelings for her. PC A did not reciprocate but they became close friends. The protagonists then discussed this topic amongst many others, including all aspects of each other's private lives, including PC A's complicated private life, openly and frankly. There were regular exchanges of crude and/or sexualised messages. But they also provided one another with an important source of support. As they both said more than once in evidence, each acted as an "emotional crutch" for the other and both welcomed the support that each provided to the other.
18. There came a time on 20 January 2025 when PC A was taken ill with a suspected appendicitis. At the Officer's suggestion she called 111 and that service suggested she attend Accident & Emergency. She asked the Officer to take her to hospital and he willingly agreed. She arrived at the Medway Maritime Hospital in the early hours of 21 January 2025. PC A was in intermittent pain and was understandably anxious about being at hospital. She was also not a good patient when it came to giving blood and we accept that she passed out briefly when her blood was taken. The Regulation 30 notice alleged that PC A was vulnerable and the Officer was aware of that fact. That was agreed by Mr Lee in his Note but it was disputed that PC A was vulnerable in any legal sense. We accept that she was not vulnerable in a legal sense, using any of the recognised definitions of vulnerable adults. Nor do any of the indicators of vulnerability referenced in paragraph 4.52 of the College of Policing Guidance on Outcomes document obviously apply. However, as the Guidance goes on to explain at 4.53, we must also decide whether a person could be considered vulnerable in a given situation and whether the officer recognised or should have recognised this, taking account of all the circumstances. We are in no doubt that PC A was vulnerable given the situation she was in and that the Officer was aware of this fact.
19. At about 8am PC A was moved to the surgical assessment waiting area. Whilst at the hospital and in this waiting area PC A accepted that she was physically close to the Officer at this time in the sense that she was leaning on his shoulder, hugging him and lying with her head on his lap. PC A says she was asleep at times and whilst asleep with her headphones on and her hood up, the Officer leant over

and kissed her on the lips. She said she was woken by the kiss, did not reciprocate and did not consent to being kissed. This is Allegation No.1 to which we now turn.

20. Allegation No.1. We repeat our findings above about PC A's vulnerability at this time and in that situation. Having carefully reflected on the rival accounts, we find that PC A was more likely than not asleep at the time and that the Officer took the opportunity to kiss her on the lips without consent. The Officer said he felt that the situation was intimate and this made it appropriate for him to kiss her but it was clearly inappropriate in this setting and at this time, given her obvious vulnerability. The fact that PC A had been seeking comfort from him at a difficult time, and had been physically close to the Officer as she herself accepted, did not entitle him to kiss her or infer her consent to being kissed. There was nothing sexual about that earlier contact. The Officer's focus, as he said in his evidence, was very much on how *he* felt and his sense that this was the right moment, but he appears to have had no regard to her vulnerable circumstances and made no attempt to ascertain her wishes or gauge her feelings at the time in this hospital setting. We have resolved this issue based on our assessments of PC A and the Officer and the inherent probabilities. We are not persuaded that the documentary evidence or the other untested evidence is of any real assistance in resolving this issue.
21. Allegation No.2. Later in the course of the morning whilst outside the hospital in the smoking area, it is common ground that the Officer kissed PC A again. It is common ground that she reciprocated. The main dispute is about whether this was done reluctantly by her because PC A felt uncomfortable confronting the Officer, or whether she was willingly participating. There is a further dispute about who initiated this kiss, the Officer or PC A and a yet further dispute as to whether there were other unpleaded occasions of consensual kissing.
22. PC A said they were outside with her vaping. He hugged her. She looked up at him and he kissed her. She accepted that she reciprocated but explained that she did not want to "make a scene". She said words to the effect now is not the time. The Officer's account was PC A wrapped herself around him whilst they were talking about the possibility of surgery. He said he looked down, she closed her eyes and pouted her lips and leant up to him at which point the Officer kissed her and it was a lingering kiss.

23. We prefer PC A's account. We find he initiated this kiss. It would be incongruous given her vulnerability for her to initiate a kiss. We also accept that she then said words to the effect that this was not the time. That all said, we have had regard to our legal directions. Reluctant consent is still consent.
24. The suggestion by the Officer of multiple other occasions of consensual kissing is not strictly an issue on the pleadings. However, it is an important piece of evidence which we have to consider as it may have wider ramifications. It was barely mentioned in interview. The suggestion was put to PC A in the most general terms with no specifics given. Given the potential importance of this evidence, were it to be true, we are surprised that it only emerged in this rather haphazard way. We found the evidence on this issue unconvincing and find that there were not multiple other occasions of kissing at the hospital.
25. Allegation No.3. Both agree that on return to her grandmother's house and whilst sitting in the Officer's car, the Officer put his hand on her thigh and kissed her. They also agree that he then moved his hand to her groin and rubbed her vagina over her clothing. The dispute is about consent. PC A said she was tired, sweaty, had been crying and just wanted to go to sleep. She said this in her witness statement: *"We went from normal conversation to let's go have sex. I don't know how it even crossed his mind in that moment. I don't know what gave him the vibe that he thought I wanted this. It was the last thing on my mind considering the situation"*. She said she had not consented to this sexual touching and went on to say in her statement that *"Pat took advantage of me being vulnerable at the time"*.
26. The Officer said that there was reciprocal consensual kissing and that when he put his hand on her thigh, she opened her legs which he took as an invitation to move his hand up her leg and rub her vagina through her clothes. His account is that he then pulled away and suggested they could go "somewhere", to which she responded *"I don't think that is a good idea, it will make things complicated at work"*. He said he realised she was right and that it was a bad idea because they worked on the same team. However, he maintained that the earlier contact was consensual and appropriate in the moment.
27. Our findings are as follows. The Officer initiated the contact and moved his hand to her leg before progressing to her vagina. She did not invite or encourage this by opening her legs or otherwise. She immediately told him it was a bad idea at which point he desisted. However, at no point prior to him stopping did PC A consent to

this sexual touching. There was nothing about the circumstances, particularly given our earlier findings, which could have led the Officer to think that this was acceptable or appropriate behaviour. We are reinforced in our conclusions on this allegation by the terms of a Whatsapp message sent by the Officer to PC A at 18:32 on 21 January 2025 in which the Officer said he was “*sorry for the way I handled things dropping you off...*” He was asked what he was apologising for and said that he was not apologising for any uninvited sexual contact. However, the Panel felt that this was the logical and most likely explanation for this apology. For completeness, whilst neither party invited us to consider reasonable belief when determining the issue of consent, we have done so nonetheless and formed the clear view that the Officer did not reasonably believe that PC A was consenting in relation to Allegations 1 and 3. The Officer suggested throughout his evidence that he was receiving “mixed messages” from PC A and that she never “shut the door” on a possible sexual relationship. However, we are satisfied that PC A never indicated that she was interested in a sexual relationship with him and the Officer can have been in no doubt about her wishes in that regard, particularly on the occasion of her visit to the hospital when she was in an obviously vulnerable state. We are satisfied on the balance of probabilities that she did not consent to any of the kissing or sexual touching which is the subject of Allegation No.3.

28. In sum, we find Allegations (1), (2) and (3) proved on the balance of probabilities. However, as explained above, we are not satisfied that the kissing which is the subject of Allegation (2) was without consent, albeit the consent was reluctant.
29. *Conclusions on Breach of Standards and Misconduct/Gross Misconduct.* The AA alleges that the Officer’s conduct amounts to breaches of the Standards relating to Authority Respect and Courtesy and Discreditable Conduct.
30. The Standard relating to Authority Respect and Courtesy provides:

Police officers 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.
31. The Standard relating to Discreditable Conduct provides:

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

32. It is self-evident from our findings above that we find that the Officer has breached both those Standards. He clearly acted without self-control and failed to treat PC A with respect and courtesy by kissing her without consent as per our findings above, and kissing and touching her sexually without her consent as per our findings above. On both occasions, PC A was vulnerable and the Officer took advantage of her in what were obviously very difficult circumstances for her, as he well knew. This type of behaviour is also behaviour of the kind that has the potential to discredit the police service or undermine public confidence in it. It is also self-evident and we find that the Officer violated PC A's dignity by kissing and touching her without her consent.
33. In assessing seriousness, we consider culpability, harm, aggravating factors and mitigating factors. This was deliberate and intentional conduct, but not targeted or planned; it was opportunistic. The Officer did not intend harm to PC A but he could reasonably have foreseen the risk of harm, given her vulnerable circumstances as explained above. Sexual impropriety of this kind is serious and can significantly undermine public trust in the profession. We are satisfied this conduct caused some psychological distress to PC A. We are also mindful of the potential for harm to the reputation of the police service. Aggravating features include the element of sexual gratification involved in his behaviour. Mitigating features include the fact that the behaviour was confined to a brief occasion.
34. Mr Lee accepted that if the Officer violated PC A's dignity by kissing and touching her without her consent, then that must be gross misconduct. That was an appropriate concession. We regard it as self-evident in the light of our findings above that this was gross misconduct.

Sanction

35. We repeat our findings above. The Panel has found proved breaches of the Standards relating to Authority Respect and Courtesy and Discreditable Conduct and categorised those breaches as gross misconduct.

36. In determining the appropriate sanction the Panel have followed the 3-stage approach identified by Popplewell J in *Fuglers LLP v SRA* [2014] EWHC 179 (Admin) at paragraph 28 which is in these terms:

“There are three stages to the approach which should be adopted by a [...] disciplinary tribunal in determining sanction. The first stage is to assess the seriousness of the misconduct. The second stage is to keep in mind the purpose for which sanctions are imposed by such a tribunal. The third stage is to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question”.

37. In applying the above-mentioned 3-stage approach and arriving at our decision on the appropriate sanction, we have also given careful consideration to the ‘*Guidance on Outcomes in Police Misconduct Proceedings*’ (“the Guidance”) published by the College of Policing.

38. The relevant parts of the Guidance are as follows:

“The guidance does not override the discretion of the person who is conducting the meeting or hearing. Their function is to determine the appropriate outcome and each case will depend on its particular facts and circumstances. Guidance cannot and should not prescribe the outcome suitable for every case.

This guidance outlines a general framework for assessing the seriousness of conduct, including factors that may be taken into account. These factors are non-exhaustive and do not exclude any other factors that the persons conducting the proceedings may consider relevant”.

39. Later on, the Guidance states:

“When determining the appropriate outcome to impose consider the purpose of police misconduct proceedings.

The purpose of the police misconduct regime is threefold:

- 1. Maintain public confidence in and the reputation of the police service.*
- 2. Uphold high standards in policing and deter misconduct.*
- 3. Protect the public”.*

40. The Guidance draws specific attention to the decision of the House of Lords in *R (Green) v Police Complaints Authority* [2004] UKHL 6 at paragraph 78 where Lord Carswell stated in relation to the police service:

“Public confidence in the police is a factor of great importance in the maintenance of law and order in the manner of which we regard as appropriate in our polity. If citizens feel that improper behaviour on the part of police officers is left unchecked and they are not held accountable for it in a suitable manner that confidence will be eroded”.

41. Chapter 4 of the Guidance deals with ‘Assessing Seriousness’. It refers firstly to the *Fugler* stages set out above. It then goes on to emphasise that assessing seriousness is the first stage and directs attention to four central reference points:

- “1. The officer’s culpability for the misconduct.*
- 2. The harm caused by the misconduct.*
- 3. The existence of any aggravating factors.*
- 4. The existence of any mitigating factors”.*

42. Under the heading ‘*Culpability*’ at paragraph 4.9 the Guidance contains the following: ‘*Culpability denotes the officer’s blameworthiness or responsibility for their actions. The more culpable or blameworthy the behaviour in question the more serious the misconduct and the more severe the likely outcome*’.
43. We repeat the conclusions set out in our Stage 1 findings on seriousness. No further elaboration is required and we see no reason to alter our assessment in the light of submissions on sanction. Sexual touching of a fellow officer without consent is clearly very serious indeed.
44. Turning then to Stage 2 of Fugler, we remind ourselves that by far the most important purpose of imposing disciplinary sanctions is to uphold the reputation of the police service as a whole in the eyes of the general public.
45. Finally, we turn to Stage 3 and consider the appropriate sanction. The general approach is that a panel must have regard to proportionality and choose the least severe outcome which adequately deals with the issues identified whilst protecting the public. We have carefully considered the Officer’s service record, his character references and PC A’s Victim Personal Statement which deposes in detail to the significant impact of this incident upon her. We have considered the various Stages in the usual way in coming to our decision but the timings in this case mean that the amendments to the Police (Conduct) Regulations 200 made by The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025 mean that we must dismiss the Officer without notice unless that there are exceptional circumstances which justify a lesser sanction in the form of a final written warning, or reduction in rank.
46. The legislation does not identify what amounts to exceptional circumstances. Nor is there any Home Office guidance to lend assistance. We must therefore apply the natural and ordinary meaning of the word. Exceptional is a strong word and means what it says. It imposes an obviously high threshold, to be evaluated on a case-by-case basis. Mr Lee submitted that there were or might be exceptional circumstances as follows. This was a one-off or single episode of misconduct albeit extending over the course of one day. It was not predatory or premeditated behaviour but opportunistic and he made the point that the Officer stopped the touching when PC A said it was not a good idea. In terms of personal mitigation, Mr Lee drew our attention to the Officer’s commitment to policing work, his

unblemished service record and the positive testimonial evidence which emphasised that this behaviour was entirely out of character. He submitted that the public interest could be protected by a lesser sanction in the form of a lengthy final written warning. He submitted that management should have intervened strongly at a much earlier stage given the nature of the interaction between the Officer and PC A and that this would have nipped any problem in the bud. He also made the point that there was little or no prospect of any repetition of this type of behaviour by the Officer. In our judgment there is nothing in the circumstances that is out of the ordinary, unusual, or atypical. The Officer showed no insight and no remorse. In our judgment there are no exceptional circumstances. In those circumstances the sanction we impose is dismissal without notice.



ACO Andrew Pritchard
IPM Bryan McAlley
IPM Alison Smailes

24 September 2026