

REPORT UNDER REGULATION 43 OF THE POLICE (CONDUCT) REGULATIONS 2020

Rank	Number	Name	Police Force
Former Police Sergeant	1710	Glenn Atkinson	Wiltshire Police
A Misconduct Hearing in respect of the above former officer was held on 4 November 2021. The members of the Panel were Ms Sally Olsen (legally qualified chair), Mr Ben Hughes (independent member) and Superintendent Phil Staynings.			

PRELIMINARY MATTERS

Regulations. The allegations came to light on or after 1 February 2020 and therefore fall to be dealt with under the Police (Conduct) Regulations 2020 (“the Regulations”) and Home Office Guidance (5 February 2020 – Version 1.0) (“the Home Office Guidance”). References to any specific ‘Regulation’ in this document are to the Regulations unless otherwise stated.

Pre-hearing. A remote Case Management Hearing was held on 15 October, at which a number of matters, including redactions to the bundle (see below) were discussed. In accordance with Regulation 33(8), the Chair made directions as to the time, date and location for the hearing and provisional directions as to holding the hearing in public and reporting restrictions (see below).

Hearing in Public. The hearing was held in public, with notice being placed on the Wiltshire Police website on 26 October 2021. No request for the hearing to be held wholly or partly in private was made by any party. Those in attendance were socially distanced in light of the Covid-19 pandemic. No members of the public or press attended.

Representation. The Appropriate Authority (AA) was legally represented by Mr Matthew Holdcroft of Counsel, who appeared by video link. Ex-DS Atkinson was represented by PC Shane Robinson of the Police Federation¹.

Hearing in absence of Officer. The Regulation 30 Notice was served on 14 September 2021. On 30 September 2021, ex-DS Atkinson submitted a Regulation 31 response, in which he admitted gross misconduct. At a remote preliminary hearing on 15 October 2021, PC Robinson confirmed this admission on ex-DS Atkinson’s behalf. PC Robinson informed

¹ As permitted by Regulation 37(3).

the chair that ex-DS Atkinson retired on 3 October 2021 and did not intend to attend the hearing. At the hearing itself, PC Robinson confirmed that ex-DS Atkinson consented to the hearing taking place in his absence. The Panel is satisfied that Ex-DS Atkinson is aware of the allegations and has made a deliberate choice not to attend the hearing. In accordance with Regulation 37(3), the hearing proceeded in his absence.

Anonymity and Reporting Restrictions. Although it was not requested by any party, anonymity was granted to the three female officers who were the subject of ex-DS Atkinson's conduct. The chair made a provisional decision to this effect of her own volition at the pre-hearing on 15 October 2021, on the basis that she considered it likely that the individuals would have applied for and been granted anonymity if they were legally represented in the proceedings. This provisional decision was stated in the notice of hearing published on 26 October 2021, and this included a direction that any representations as to holding the hearing in public, conditions on attendance and publication of any matter by the Director General of the IOPC, any complainant, interested person, witness or representative of the media pursuant to Regulation 36(6) must be made in writing by 4 pm on 2 November 21. No such representations were made. Accordingly, pursuant to Regulation 39(3), the chair directs that the three female officers shall be anonymised and shall be referred to only by the ciphers DCs X, Y and Z respectively in any published document. They shall not to be identified in any record of the misconduct hearing that is published and no information leading to their identification should be published. These conditions have been imposed as they are deemed necessary and proportionate to protect the welfare of DCs X, Y and Z under the Harm Test².

Redactions. Following discussion at the pre-hearing on 15 October 2021, some inadmissible opinion and irrelevant matters were redacted from the bundle. The Panel members confirm that, to the extent that they saw any of the redacted material, they have put it out of their minds, and it has played no part in the decisions that have been reached by the Panel.

Content of this notice. This notice is the definitive record of the Panel's decision. Parts of it were read during the hearing, and to the extent that there is any difference between the hearing transcript and this record, this record takes precedence. Numbers in square brackets refer to page numbers in the bundle.

² Regulation 6. See also HOG Paragraph 11.84.

INTRODUCTION

Former Officer Status

1. As ex-DS Atkinson has retired, this is a 'Condition A'³ case, meaning that the Regulations apply with the modifications set out in Schedule 1⁴. Accordingly, ex-DS Atkinson will be treated as if he were still serving save in terms of any outcome (see further below).

Role of the Panel

2. The Panel is required to review the facts of the case and decide whether the conduct of Ex-DS Atkinson amounts to Misconduct, Gross Misconduct, or neither⁵.
3. Regulation 2 defines misconduct and gross misconduct 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.

4. If the Panel makes a finding of Misconduct or Gross Misconduct, it must go on to consider what disciplinary action is appropriate. In relation to Gross Misconduct, the words "*so serious as to justify dismissal*" do not indicate that dismissal must result, rather that the finding that ex-DS Atkinson would have been dismissed if he were still serving is a possible outcome.

The Factual Allegations

5. The Allegations in the Regulation 30 Notice are set out below. A short title for each allegation has been added in brackets for ease of reference:

Allegation 1 ('July 2020 Hug'). *In July 2020 [DC X] asked you not to hug her. This was because you hugging her made her feel uncomfortable and because of the COVID restrictions. However, people responded that these were COVID hugs and*

³ As defined in Regulation 4(3).

⁴ Pursuant to Regulation 4(2).

⁵ Regulation 41(15).

accordingly she felt that she had no choice but to permit you to hug her. She did this notwithstanding that she felt it was inappropriate and made her feel uncomfortable.

Allegation 2 (Breast Size Comments). *During a conversation you stated that [DC X] would never get on to your team as, '[her] boobs are too small.' This was a recurrent theme in your conversations you would constantly make comments about size of her breasts and highlight that they are small. In addition you would frequently discuss breasts in particular [DC Y's] breasts and suggest that 'Only females with big tits' could work on your team. You had also commented to [DC Z] that she should not lose any more weight as, '[she would] have no tits left.'*

Allegation 3 (Fan Comment). *On a particularly hot day [DC X] was stood in front of a fan. You said, 'Careful you don't blow your boobs away.' [DC X] felt awkward, she blushed and felt embarrassed.*

Allegation 4 (Rubbing DC Y's shoulders). *On another occasion you stood behind [DC Y] and began to rub her shoulders. She challenged this and you replied, 'You must have liked it the other day as you got a nipple erection.'*

Allegation 5 (Rubbing DC Z's shoulders). *You also massaged [DC Z's] shoulders on a separate occasion whilst in the PPD office. As you walked away from her you made a comment along the lines of 'Bet that made you wet' or 'Are you wet now?'*

Allegation 6 (August 2020 Hug). *In August of 2020 [DC X] was in the kitchen of the Melksham PPD office. She was washing up and her back was to the door. You approached her and hugged her. He had one hand around her front and one around her back. You were touching her hip and she believes that she could feel your penis pressing against her. She felt your action was creepy and horrible. She felt that you had pinned her in and she had felt very uncomfortable.*

Allegation 7 (Comment to DC Y). *On another occasion there was an occasion for [DC Y] to celebrate. You said that she wanted to get home so that she could go and 'Gnosh her husband off.'*

Standards of Professional Conduct

6. It is alleged that DS Atkinson's conduct breached the following standards of professional conduct: Honesty and Integrity, Authority, Respect and Courtesy and Discreditable Conduct.
7. Schedule 2 to the Regulations defines the Standards of Professional Behaviour. Further detail is provided in The College of Policing's Code of Ethics (July 2014 edition) ("the Code of Ethics"). The Standards alleged to have been breached in this case are (1) Authority, Respect and Courtesy and (2) Discreditable Conduct and (3) Confidentiality. The Schedule 2 definitions of each of these Standards is set out below, followed by the Paragraphs from the Code of Ethics which the Panel finds are particularly relevant in this case.

8. **Honesty and Integrity.** *"Police officers are honest, act with integrity and do not compromise or abuse their position."*

Code of Ethics:

- a. *"According to this standard you must: act with honesty and integrity at all times..."*

9. **Authority, Respect and Courtesy.** *Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.*

Code of Ethics:

- a. In Paragraph 2.1:

- *Carry out your role and responsibilities in... [a] professional manner.*
- *Avoid any behaviour that might... damage either your own reputation or that of policing*
- *Ensure your behaviour and language could not reasonably be perceived to be abusive, oppressive, harassing, bullying, victimising or offensive by the public or your policing colleagues.*

- b. In Paragraph 2.3 under the heading 'Relationships':

(1) *Not engage in sexual conduct or other inappropriate behaviour when on duty.*

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

Code of Ethics:

- a. Paragraph 9.1:

As a police officer... you must keep in mind at all times that the public expect you to maintain the highest standards of behaviour. You must, therefore, always think about how a member of the public may regard your behaviour, whether on or off duty.

- b. Paragraph 9.2:

You should always ask yourself whether a particular decision, action or omission might result in members of the public losing trust and confidence in the policing profession.

- c. Under "Examples of meeting this standard are when you..."

Avoid any activities (work-related or otherwise) that may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public.

Admissions

11. **Gross misconduct.** In his Regulation 31 response, Ex-DS Atkinson admits gross misconduct. This was confirmed on Ex-DS Atkinson's behalf at the remote preliminary hearing on 15 October 2021.
12. **Admitted factual allegations.** In terms of the factual allegations detailed in the Regulation 30 notice and set out above, ex-DS Atkinson makes a number of

admissions in his Regulation 31 and Regulation 18 Responses⁶. The following allegations are admitted:

- a. **Allegation 2 (Breast Size Comments).** Ex-DS Atkinson admits making comments about breasts [7] and describes this as occurring during “*team banter*” [23]. Specifically, he recalls making a comment to the effect that a small breasted officers would be a minority in his team. He states that the comments were not intended to offend or stigmatise anyone [23].
- b. **Allegation 5 (Rubbing DC Z’s shoulders).** Ex-DS Atkinson admits the allegation (i.e. massaging DC Z’s shoulders and making a comment about it making her ‘wet’), but states that he did not intend to cause any offence [7].
- c. **Allegation 7 (Comment to DC Y).** Ex-DS Atkinson admits making the alleged ‘nosh off’ comment and states that this was a ‘joke’ and ‘banter’ between them as they are friends [7].

13. **Other Allegations.** In relation to the remaining allegations, Ex-DS Atkinson makes limited admissions or states that he does not recall:

- a. **Allegation 1 (‘July 2020 hug’).** Ex-DS Atkinson admits that he hugged DC X but states that he does not recall her ever asking him not to and that he would not have ignored such a request. He states he was unaware of the comment ‘Covid hugs’ [7].
- b. **Allegation 3 (Fan Comment).** Ex-DS Atkinson neither confirms nor denies this allegation and states that he has no recollection of it [7].
- c. **Allegation 4 (Rubbing DC Y’s shoulders).** Ex-DS Atkinson states that he does not recall rubbing DC Y’s shoulders and states that the ‘nipple erection’ comment has been taken out of context. He states that another officer made that comment and he may have repeated it, but not in the context alleged [7].

⁶ Ex-DS Atkinson states in his Regulation 31 response that he relies on the comments he made in his Regulation 18 response. The Regulation 18 response is to the first Regulation 17 Notice [16] which appears from the Investigators report to have been served in October 2020 [9]. This refers only to Allegations 2 and 6 as numbered above. A further Regulation 17 Notice [24] detailing the remaining allegations was served on 11 November 2020 [9].

- d. **Allegation 6 ('August 2020 Hug')**. Ex-DS Atkinson admits that he hugged DC X [7], but that this was not intended to be sexual and that he did not intentionally press his penis against her leg [7, 23].
- 14. In general, ex-DS Atkinson refers to a 'culture of hugging' [7-8, 18-19] and does not accept that there was a significant power imbalance between him and DCs X, Y and Z [7].
- 15. On behalf of the Appropriate Authority, Mr Holdcroft invited the Panel to find that anything less than an unequivocal denial effectively amounted to an admission by ex-DS Atkinson. He submitted that DC X's account is undisputed and that Allegation 6 (August 2020 hug) involving ex-DS Atkinson pressing his penis against DC X's leg was a serious allegation and one that DS X would not have made lightly. Mr Holdcroft invited the Panel to find all the allegations proved and that the Standards of Professional Conduct of Honesty and Integrity, Authority, Respect and Courtesy and Discreditable Conduct had been breached.
- 16. On behalf of ex-DS Atkinson, PC Robinson pointed out that, in relation to the matters which ex-DS Atkinson states he does not recall, that may be because they did not happen. He pointed out that ex-DS Atkinson had made admissions in relation to some allegations. He also referred to the paragraph of DC X's evidence where she reflects on Allegation 6 (the August 2020 hug) and considers whether something other than ex-DS Atkinson's penis may have touched her leg, and suggested that there was some doubt as to what had touched her leg.

ISSUES AND FINDINGS

Findings based on Admissions

- 17. Having read the bundle and based on the admissions of ex-DS Atkinson as detailed above, pursuant to Regulation 41(16)(b), the Panel made the following findings:
 - a. That Allegations 2 (Breast Size Comments), 5 (Rubbing DC Z's shoulders) and 7 (Comment to DC Y) are proved.

- b. Ex-DS Atkinson breached the standards of professional behaviour (see further below) and his conduct amounts to gross misconduct.

Issues for the Hearing

- 18. The following issues fell to be decided by the Panel during the hearing:
 - a. Whether Allegations 1, 3, 4 or 6 have been proved by the AA.
 - b. Which Standards of Professional behaviour were breached.
- 19. Although the Officer has admitted to gross misconduct, the Panel considers it necessary to make findings in relation to the above in order to decide what outcome is appropriate. The Panel reminds itself that it does not need to make a finding on every issue and need only make findings on those issues which it believes to be relevant and material to this decision.

Findings of fact and consideration of evidence

- 20. In making its findings of fact, the Panel considered all the evidence and information in the bundle of 50 pages⁷ as well as all the representations made on behalf of the Appropriate Authority and ex-DS Atkinson, even if not specifically referred to in its findings. The Panel gave the evidence such weight as it considered appropriate and discarded evidence it found to be irrelevant. In his opening note, Mr Holdcroft indicated that the Panel should take into account character evidence at the findings stage as it is relevant to ex-DS Atkinson's credibility and to his propensity to act as alleged. The Panel has accordingly taken into account the character evidence.
- 21. Neither party requested that any witnesses attend to give live evidence and both parties confirmed in the pre-hearing on 15 October 2021 that they agreed to the case being decided on the papers. There was no suggestion that the Officer wished to challenge any of the witness evidence through cross examination and, as such, the chair did not consider it in the interests of justice to require the attendance of any live witnesses. Accordingly, the Panel made its findings on the papers and with the benefit

⁷ Of which 47 pages are numbered.

of the AA's opening note and oral submission on behalf of the AA and ex-Sgt Atkinson. Neither party objected to this approach.

22. The Panel was mindful that the burden of proof was on the Appropriate Authority. In accordance with Regulation 41(16)(a), the Panel applied the standard of proof required in civil cases, namely the balance of probabilities. In other words, the Panel assessed, on the evidence, whether any matter was more likely than not to have occurred.
23. **Evidence of DC X.** The Panel noted that DC X had been consistent in what she had reported to DC Z and DS Boyce and in her witness statement and that her evidence of the type of behaviour ex-DS Atkinson engaged in is corroborated by DC Z (see below). As such, the Panel found DS X to be a reliable witness.
24. **Evidence of DC Z.** The Panel noted that the evidence of DC Z tallies with the admissions made by ex-DS Atkinson. Specifically, the following matters which are included in her statement are admitted by ex-DS Atkinson:
 - a. He would hug members of his team.
 - b. He would joke about breast size (Allegation 2).
 - c. He massaged DC Z's shoulders and had afterwards said words to the effect of "*bet that made you wet*" or "*are you wet now*" (Allegation 5)
 - d. He made a comment to DC Y about wanting to get home to 'nosh off' her husband (Allegation 7).
25. We note that DC Z says she likes ex-DS Atkinson and had never had any issues with him. In relation to the specific matters listed above, she makes it clear that she did not think of the hugging as a problem and was not offended by any of the comments made to her. This, combined with the significant overlap between DC Z's account and the admissions of ex-DS Atkinson, leads the Panel to believe that DC Z is a reliable witness.
26. **Evidence of DC Y.** Similarly to DC Z, DC Y states that she really likes ex-DS Atkinson and that he had never behaved inappropriately towards her. However, unlike DC Z, we find DC Y's evidence to be unreliable. This is because she denies matters which are admitted by ex-DS Atkinson. Specifically, she claimed to have no

recollection of discussions about females not being allowed on the team due to having small breasts [35], when the evidence of DC Z is that it was a “*a long standing joke by ex-DS Atkinson that only females with big breasts could work on his team*” [36] and ex-DS Atkinson himself admits that he made comments about breast size as a joke. In relation to Allegation 7 (Comment to DC Y), which is admitted by the ex-DS Atkinson, DC Y was evasive, stating that he “*could have*” made the comment about her going home to ‘nosh off’ her husband, but that she would not have been offended if he did. She added that she thought she might have made a comment, but that she would have said ‘*get laid*’ rather than ‘*nosh*’. It appears to the Panel that this is an attempt to protect ex-DS Atkinson and, as such, it does not consider DC Y to be a particularly reliable witness.

27. **Allegation 1 (‘July 2020 hug’).** Ex-DS Atkinson admits hugging DC X, but states that he does not recall her asking him not to and that he would not ignore such a request. The only issue for the Panel to decide is whether ex-DS Atkinson was aware that DC X did not consent to being hugged. Ex-DS Atkinson describes a culture of hugging and both DCs Y and Z confirm this. The Panel sees no reason to question the account of DC X. We find it particularly likely that she would ask ex-DS Atkinson not to hug her given that the incident took place during the Covid-19 pandemic. Accordingly, **we find Allegation 1 proved** on the balance of probabilities. We do not doubt DC X’s account that someone made the comment about ‘Covid hugs’, but as this comment was never attributed to ex-DS Atkinson, we do not take it into account in relation to our assessment of his conduct.
28. **Allegation 3 (Fan Comment).** We find it significant that ex-DS Atkinson specifically does not “*confirm or deny*” this allegation. In the context of ex-DS Atkinson’s admission to the various breast size comments that form the basis for Allegation 2 and our broad acceptance of DC X’s evidence, we consider it more likely than not that this incident did occur. Accordingly, **we find Allegation 3 proved.**
29. **Allegation 4 (Rubbing DC Y’s shoulders).** Ex-DS Atkinson has admitted Allegation 5, which involves very similar conduct towards DC Z. We have noted that DC Z gives a consistent, and, in our view, reliable account, whereas DC Y’s evidence appears to favour ex-DS Atkinson. In particular, we find that DC Y’s evidence that ex-DS Atkinson never rubbed her shoulders and she never saw him do it to anyone [35] else lacks credibility given ex-DS Atkinson’s admission to Allegation 5 (Rubbing DC Z’s shoulders and the associated ‘wet’ comment) and DC X’s evidence that ex-DC

Atkinson would often go behind women in the department and start rubbing their shoulders [34]. Taking all of those factors together, we consider it more likely than not that this incident did occur. Accordingly, **we find Allegation 4 proved.**

30. **Allegation 6 ('August 2020 Hug').** Ex-DS Atkinson admits hugging DC X, but denies deliberately pressing his penis against her. DC X explains that ex-DS Atkinson was "*uncomfortably close*" to her and the front of his body was touching her hip. She states that her "*instant thought was that it was his penis*". She told DC Z that ex-DS Atkinson had pressed his penis into her leg [36] and she also informed DS Boyce that she had felt ex-DS Atkinson's penis on her leg during the hug. We accept DC X's account and find that, given that she was standing facing a sink, meaning ex-DS Atkinson was hugging her from the side, it is more likely that what she felt against her leg was his penis rather than anything in his pockets (which would not have been in contact with her in that position). We take into account that DC X's first thought was that it must be his penis, that she described it as a 'bulge' against her leg, and it was only afterwards that she sought to come up with an alternative explanation [30]. DC X has been consistent in the account she has given and we find, on the balance of probabilities, that she did feel ex-DS Atkinson's penis against her leg. Furthermore, we find that, as there was sufficient pressure for DC X to feel his penis, ex-DS Atkinson must have been aware that it was pressing against her. Accordingly, **we find Allegation 6 proved.**

Standards of Professional Conduct

31. We find that ex-DS Atkinson's conduct breached the standards of Authority, Respect and Courtesy and Discreditable Conduct. We reject ex-DS Atkinson's assertion that there was no significant power imbalance between himself and his colleagues [7]. He was senior in rank to DCs X, Y and Z (DC X being an acting DS) and was line manager for DCs Y and Z. Accordingly, we find that there was a power imbalance and that he was in a position of trust relative to DCs X, Y and Z.
32. The AA invited us to find that ex-DS Atkinson's conduct also breached the integrity limb of the standard of Honesty and Integrity, but we make no such finding. We acknowledge the authority cited in Mr Holdcroft's opening note (*R v CC TVP v (1) Police Misconduct Panel (2) White [2017] EWHC 923 (Admin)*), in which McGowan J refers to the Code of Ethics explaining the concept of integrity as 'doing the right thing'. However, that case concerns a police officer failing to return a Ministry of Defence

identity card, which is factually very different from the case before us. Whilst we are in no doubt that ex-DS Atkinson has not 'done the right thing', we do not find that his conduct amounts to a lack of integrity as envisaged by the guidance at page 5 of the Code of Ethics. Taking Mr Holdcroft's argument to its logical conclusion, any misconduct would amount to a breach of the integrity standard, and we do not believe that was the intention of the Code of Ethics.

Seriousness

33. Ex-DS Atkinson admits gross misconduct.

DECISION ON OUTCOME

Available outcomes for former officers

34. In accordance with Regulation 42 (as modified by Schedule 1) and as explained in the HOG sub-paragraphs 20.66 (c) to (e), there are only two potential outcomes available for former officers:
- a. No discipline action.
 - b. Discipline action, namely that ex-DS Atkinson would have been dismissed if he had not ceased to be a member of the police force.

Approach

35. The Panel has regard to the College of Policing Guidance on Outcomes in Police Misconduct Proceedings ("the Guidance"). References to Paragraphs below are references to the Guidance. Following the approach in *Fuglers LLP v Solicitors Regulation Authority* [2014] EWHC 179 (Admin), as adopted in the Guidance, the Panel approached its decision on outcome in three stages:
- a. Assess the seriousness of the misconduct (based on culpability, harm, aggravating and mitigating factors).
 - b. Keep in mind the purposes for which an outcome is imposed.

- c. Choose the outcome which most appropriately fulfils those purposes given the seriousness of the conduct.
36. The Panel has reminded itself that a finding of gross misconduct does not lead automatically to a finding that ex-DS Atkinson would have been dismissed if he were still serving.
37. The Panel has re-visited the character evidence submitted in respect of ex-DS Atkinson at the findings stage and has taken into account his service record and submissions on behalf of the AA and ex-DS Atkinson.

Seriousness

38. **Culpability.** Paragraph 4.11 states that “*Conduct which is intentional, deliberate, targeted or planned will generally be more culpable than conduct which has unintended consequences...*”. Paragraph 4.12 states that “*Where harm is unintentional, culpability will be greater if the Officer could reasonably have foreseen the risk of harm*”. We find that ex-DS Atkinson’s actions were deliberate. Even if no harm was intended, we find that he could reasonably have foreseen the risk of harm. In relation to Allegation 2 (Breast Comments), ex-DS Atkinson admits that, as a supervisor, he should not have “*encouraged the conversation*” and acknowledges that it was not line with force policy and guidance [23]. In relation to his conduct as a whole, we consider that, having held the rank of sergeant and role of supervisor within the Public Protection Department (‘the PPD’) since April 2015, ex-DS Atkinson could reasonably have foreseen the risk of harm.
39. Paragraph 4.15 introduces types of misconduct which should be considered especially serious. These include sexual impropriety and breach of position or trust or authority⁸. We have found that ex-DS Atkinson’s conduct included sexual impropriety in the form of pressing his penis against the leg of a female colleague (Allegation 6), making sexualised comments to female colleagues (particularly Allegations 4, 5) and inappropriate comments about female colleagues’ breasts (Allegations 2 and 3).
40. As set out in Paragraph 31 above, we have found that ex-DS Atkinson was in a position of trust relative to DCs X, Y and Z. We find that, as team leader, he should have set an appropriate tone and created an inclusive working environment within his

⁸ see Paragraphs 4.13 and 4.39 et seq.

team, but failed to do so. We find that ex-DS Atkinson abused his position of trust and responsibility to them all, but in particular DC X. DC X transferred to the PDD from another police force in February 2020 and shortly afterwards became an acting sergeant. Whilst she was in a different team, her shifts would overlap with those of ex-DS Atkinson, and by DC X's own account he was very helpful to her when she started. Whilst we do not make any finding that DC X was vulnerable in her own right, we find that she was vulnerable relative to ex-DS Atkinson due to her subordinate rank and being new to Wiltshire police and the PPD when the conduct occurred.

41. **Harm.** We find that ex-DS Atkinson's conduct, particularly in relation to Allegation 6 (August 2020 Hug), amounted to sexual abuse. Whilst both DCs Y and Z profess to have been unaffected by his conduct (Allegations 2, 4, 5 and 7), it is clear that DC X did suffer psychological distress arising from the conduct forming the subject of Allegations 1, 2, 3 and 6. She describes ex-DS Atkinson's conduct making her feel "*very uncomfortable*" and "*mortified*", and on more than one occasion causing her to blush [31]. It is plain that DC X was acutely embarrassed by ex-DS Atkinson's conduct towards her.
42. We are unaware of how other team members were affected by ex-DS Atkinson's conduct, however we find that he created an objectively unacceptable working environment. Whilst its decision is limited to the Allegations listed above, the Panel is concerned to note that they appear to be a 'snapshot' of behaviour that had gone for some time. Ex-DS Atkinson himself refers to a "*culture of hugging*" within his team [7] and as noted above, DC Z states that it was "*a long standing joke by ex-DS Atkinson that only females with big breasts could work on his team*" [36]. The Panel acknowledges that the PPD deal with extremely upsetting matters, including domestic abuse, child sexual abuse and child deaths. However, it does not accept ex-DS Atkinson's suggestion in his Regulation 18 and 31 Notices that this should excuse his behaviour. To the contrary, we find that he should have been all the more conscious of behaving in an appropriate manner towards his colleagues. We find that the proved allegations demonstrate an inappropriate management style, which undermined good order and discipline within the police service. In accordance with Paragraph 4.57, such conduct should be taken seriously.
43. The Panel also finds that, if these matters enter the public domain, they are likely to have a negative impact on public confidence in policing. Particularly given the sensitive nature of the work undertaken in the PPD, we believe that the public would

expect the highest standards of behaviour and would find ex-DS Atkinson's conduct extremely inappropriate and concerning. Paragraphs 4.57 to 4.65 make it clear that harm to public confidence in policing is serious, and that the risk of such harm should be taken into account whether or not it actually materialises.

44. **Aggravating factors.** The Panel identifies the following aggravating factors:
- a. Deliberate actions.
 - b. Abuse of trust, position and authority.
 - c. Regular, repeated and sustained behaviour over a period of time.
 - d. Conduct affecting multiple individuals.
 - e. Unlawful discrimination.
 - f. Significant deviation from policy.
 - g. Multiple proven allegation and breaches of the Standards of Professional Behaviour.
45. **Mitigating factors.** The Panel acknowledges the very stressful work undertaken by ex-DS Atkinson and the personal stress he was under in his home life. The Panel takes into account ex-DS Atkinson's Service History Summary and over 19 years of police service. It has read his character references, which show that many held ex-DS Atkinson in high regard and found him to be a supportive supervisor. We acknowledge that DC X herself found ex-DS Atkinson was helpful and supportive when she started working with him.

Purpose of outcome

46. The Panel kept in mind the purposes of outcomes in such proceedings; the primary purpose being the protection of public confidence in the police. Secondary purposes are demonstrating to the public and colleagues that certain conduct will not be accepted and public protection⁹.
47. The Panel has reminded itself that one of the consequences of the overarching purpose of misconduct proceedings is that ex-DS Atkinsons' personal mitigation carries less weight than it would in, for example, criminal proceedings (see: *Salter v Chief Constable of Dorset* [2012] EWCA Civ 1047).

⁹ Para. 2.3 Guidance on Outcomes.

48. It has also reminded itself of the observations of Holroyde J at paragraph 66 of his judgment in *The Queen (on the application of Williams) v Police Appeals Tribunal (Commissioner of Police of the Metropolis – Interested Party)* [2016] EWHC 2708 (QB):

*“In my judgment, the importance of maintaining public confidence in and respect for the police service is constant, regardless of the nature of the gross misconduct under consideration. What may vary will be the extent to which the particular gross misconduct threatens the preservation of such confidence and respect. The more it does so, the less weight can be given to personal mitigation. Gross misconduct involving dishonesty or lack of integrity will by its very nature be a serious threat: save perhaps in exceptional circumstances, the public could have no confidence in a police service which allowed a convicted fraudster to continue in service. Gross misconduct involving a lack of integrity will often also be a serious threat. **But other forms of gross misconduct may also pose a serious threat, and breach of any of the Standards may be capable of causing great harm to the public’s confidence in and respect for the police**”* (emphasis added).

Decision as to outcome

49. For the reasons set out above, the Panel concludes that ex-DS Atkinson’s conduct, taken as a whole, is so serious that the least severe outcome that is appropriate is a finding that he would have been dismissed without notice if he were still serving.
50. The Panel considered whether a lesser sanction, such as a Final Written Warning or Reduction in Rank would have sufficed if ex-DS Atkinson were still serving. However, due to the sexual nature of his conduct, most seriously pinning DC X in position and pressing his penis against her leg (Allegation 6), but also the sexualised comments made to DCs Y and Z whilst giving them shoulder massages (Allegations 4 and 5), as well as the repeated comments about female officer’s breasts (Allegations 2 and 3), we find that any outcome involving him remaining in the Force could have seriously damaged the standing and reputation of the profession as a whole and Wiltshire Police in particular. The Panel was particularly concerned that a lesser sanction might deter victims of crime, particularly women and victims of sexual offences, from coming forward to the police.

ANCILLARY MATTERS

51. **Police Barred List.** The LQC has considered the relevant provision under the Police Barred List and Advisory List Regulations 2017 (“the Barred List Regulations”) and is satisfied that a report containing details of this case (in accordance with Regulation 3 of the Barred List Regulations) should be sent to the College of Policing.
52. **Publication of this report.** Pursuant to Regulation 43(6), the Chair requires the AA to publish this report. This must be done within the timescale given in Regulation 43(7) and for the duration specified in Regulation 43(8). As set out above under Preliminary Matters, DCs X, Y and Z are not to be identified in any record of the misconduct proceedings and no information capable of leading to their identification should be published.
53. **Right of Appeal.** In accordance with Regulation 43(2), the Appropriate Authority shall provide ex-DS Atkinson with provide ex-DS Atkinson with a copy of this report and a notice of the right of appeal.

Date: 7 November 2021