

IN THE MATTER OF GROSS MISCONDUCT PROCEEDINGS
UNDER THE POLICE (CONDUCT) REGULATIONS 2020
BETWEEN:

The Chief Constable of South Wales Police

Appropriate Authority

And

Detective Inspector 671 Paul Giess

Officer Concerned

Decision document.

Introduction

1. The misconduct proceedings were heard in accordance with the Police (Conduct) Regulations 2020, as amended.

The AA was represented by Mr Peter Laverick

D.I. Giess was represented by Mr Hamlet.

APPROACH:

1. We are a Panel considering allegations of gross misconduct against the above officer.
2. We have considered all the evidence. All Panel members have read the bundle provided to us before the hearing. We have considered all documents to which we have been referred. We have also considered all the submissions made on behalf of each party. We have considered the further documents submitted during the hearing and the evidence of the witnesses called to give evidence in person.
3. In approaching our tasks, we have borne in mind that:
 - 3.1 We do not have to decide every matter of dispute, only those which assist us as to whether these allegations are proved.

- 3.2 We can draw inferences from the evidence submitted to us, meaning we can reach common sense conclusions from the evidence, but we have guarded against falling into speculation when reaching those conclusions.
- 3.3 Inevitably our findings are set out sequentially however we have not made any finding of fact without having first considered the entire evidential matrix.
4. The applicable regulations are the Police (Conduct) Regulations 2020 (“PCR”).
- 5.1 The approach of the Panel as set out in the PCR is:
- a) To ascertain the facts, whether admitted or found proven.
 - b) To determine whether, based on those facts, the officer has breached the SPB alleged.
 - c) To decide whether any such breaches constitute Misconduct, Gross Misconduct or neither.
 - d) Dependent on the findings under b) and c), to decide on the outcome.

BURDEN AND STANDARD OF PROOF

- 6.1 The burden of proof is on the AA.
- 6.2 The standard of proof is one of the balance of probabilities.
- 6.3 The allegations are as set out in the Regulation 30 Notice contained within the bundle.

7.0 The allegations put by the AA are as follows:-

Alleged Facts.

7.1. *Being a police officer with South Wales Police, it is alleged that you, Detective Inspector 671 Paul Giess, on 6th April 2023 breached the Standards of Professional Behaviour set out in Schedule 2 to the Police (Conduct) Regulations 2020*

7.2. *As a result, this Notice is served under Regulation 30 of the Police (Conduct) Regulations 2020 to inform you that this matter is now referred to a misconduct Panel and will progress to misconduct proceedings for gross misconduct.*

7.3. *The case against you started under Part 5 of the Police (Conduct) Regulations 2020, On 13th July 2023, you were served with a notice of referral under Regulation 51. On 28th July 2023, the case against you was remitted to Part 4 pursuant to Regulation 50. This is the Regulation 30 Notice served under Part 4.*

7.4. *On the 6th April 2023, whilst driving a [REDACTED] index number [REDACTED] you were stopped on the A48 at Laleston, Bridgend by PS 3433 Coulthard.*

7.5. *PS Coulthard could smell intoxicating liquor in the vehicle and required you to provide a specimen of breath for analysis which you agreed. The subsequent reading was positive, and you were arrested and conveyed to Queens Road Police Station Bridgend and detained.*

7.6. *Whilst in custody at Queens Road Police Station you were again asked to provide two samples of breath for analysis. You agreed and the lowest reading was 41 micrograms of alcohol in 100 millilitres of breath. This exceeded the legal drink drive limit.*

7.7. *You were then charged as follows contrary to s.5(1)(a) of the Road Traffic Act 1988: "On 06/04/2023 at STREET RECORD, A48 LALESTON ROUNDABOUT, LALESTON, BRIDGEND, BRIDGEND UK CF32 0LY drove a motor vehicle, namely on a road, namely STREET RECORD, A48 LALESTON ROUNDABOUT, LALESTON, BRIDGEND, BRIDGEND UK CF32 0LY, after consuming so much alcohol that the proportion. of it in your breath, namely 41 microgrammes of alcohol in 100 millilitres of breath"*

7.8. *You were bailed to attend Cardiff Magistrates' Court on Friday 21st April 2023.*

7.9. *On Friday 21st April 2023 you attended at Cardiff Magistrates' Court where you pleaded guilty to and were convicted of the above offence. You received the following penalty: Disqualified from Driving for 12 Months (reduced by 3 Months if a Home Office approved course is completed); and £786 fine.*

7.10. *Your conduct breached the Standards of Professional Behaviour in relation to Discreditable Conduct. Your conduct in being over the prescribed limit for alcohol and the consequent criminal conviction have destroyed the integrity and trust that South Wales Police have in you as a police officer. Public Confidence in you as a police officer and by the public that South Wales Police serves has been severely undermined by your actions. Your conduct was a serious breach of the Standards of Professional Behaviour, which amounts to Gross Misconduct in that if proven is so serious to justify dismissal.*

8.0 The AA provided the Panel with an opening note for which the Panel are grateful.

8.1 The evidence in this matter consists of the hearing bundle. Further pages were added to the bundle during the hearing which were also considered. The opening note reminds the Panel of the approach to be taken and an overview of the case which is helpful.

As has been stated above the Panel have considered all the evidence both heard from the witnesses, the evidence within the bundle, and any further evidence submitted during the hearing.

In determining this case the Panel adopted the '4 stage approach': This includes that provided in the bundle and live evidence.

9.0 Stage 1 - Ascertain the facts on the balance of probabilities

9.1 In ascertaining the facts, the Panel considered the allegations as outlined in the Regulation 30 notice.

9.2 The officer has admitted Paragraphs 1-9 of the allegations are as statements of fact. The Panel went on to consider paragraph 10 above.

The Panel has considered whether there has been a breach of the standard of discreditable conduct and, if this was found to be the case, whether that breach amounts to misconduct or gross misconduct.

9.3 Throughout the proceedings the Panel kept at the forefront of their minds the threefold purpose of the misconduct regime:

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

9.4 Discreditable conduct

The standard of discreditable conduct makes it clear that officers must conduct themselves on and off duty in a way which does not bring discredit to the force or undermine public confidence in policing.

9.5 DI Giess pleaded guilty to and was convicted of drink driving at Cardiff Magistrates Court of Friday 21st April 2023. This is an imprisonable criminal offence.

10.6 The Panel find that there was a breach of this standard in that the public rightly expect a member of the police force to act in a way which maintains trust and confidence in the force and policing generally, and should it become known that an officer had been convicted of drink driving in the circumstances described that trust and confidence would be damaged.

10.0 FINDINGS ON MISCONDUCT/GROSS MISCONDUCT

The Panel then moved to assess the seriousness of the aspects of the allegation which have been found to be proved.

10.1 Culpability

The College of Policing guidelines state at paragraph 4.9. that '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

The Panel believe that DI Giess's behaviour was intentional and deliberate, in that by his own admission he purchased the bottle of wine with the intention of drinking some of it in the car before driving home. Having consumed this alcohol, he did indeed make the decision to drive six miles to his home address.

DI Giess was in a position of trust, not just in his capacity as a police officer but by virtue of the fact that he was in a promoted position within the organisation. This exacerbates his culpability.

DI Giess had been convicted of a criminal offence and this is the reason that the proceedings against him were commenced. It is unacceptable for police officers who are responsible for enforcing the law to break it themselves. The Panel acknowledge Counsel's position on double counting and note here in terms of impact on public trust and confidence.

As a Panel we find the level of culpability to be MEDIUM to HIGH.

10.2 Harm

DI Giess's actions could have generated a situation where he or a member of the public was put at risk of physical injury. In choosing to drink and drive DI Giess exhibited a reckless disregard for the safety of others. The Panel considered the potential for actual harm as a relevant factor in this case.

The Panel considered the fact that the actions of an officer can serve to harm public confidence and cause reputational harm if the circumstances were known to the public. The Panel do not accept that knowing the full circumstances of the case would lessen public concern in relation to this matter particularly the commission of a criminal offence.

Wrongdoing by police officers is currently a matter of significant national concern.

As a Panel we find the level of harm is MEDIUM

10.3 Aggravating factors

As above there was a degree of premeditation and planning involved in this case.

DI Giess was in a position of trust and authority and had leadership responsibilities and an expectation that he would act as a role model.

As above there is currently significant national concern about wrongdoing by police officers. The Panel did not find any other relevant aggravating factors.

As a Panel we find the level of aggravation in this case to be LOW.

10.4 Mitigating factors

Mitigating factors are those tending to reduce the seriousness of the misconduct. In this case the Panel were presented with significant evidence in the form of medical reports, live evidence from Dr. [REDACTED] Davies and the officer's verbal testimony in relation to his [REDACTED] [REDACTED] which it was argued by the officer had affected his conduct in this case. A feature of

this evidence was with regard to whether the act of consuming alcohol immediately prior to driving home, was voluntary or involuntary in nature.

It is clear that DI Giess has and continues to endure a number of stressors in the course of his personal and professional life, and the Panel has the utmost sympathy for him.

The Panel have reviewed carefully all the evidence placed in front of us. We noted [REDACTED] a pattern of increasingly heavy drinking over a number of years.

The Panel considered particular aspects of the officer's evidence, and that of Dr Davies. The Panel noted DI Giess's assertion during his live evidence that he was in control of his drinking and could compartmentalise his drinking away from workplace situations. This indicates to the Panel a degree of control which could have been asserted on that day and wasn't. We were persuaded by Dr. Davies's position that an officer able to compartmentalise as DI Giess described would have had a high degree of ability to manage the journey home without the need to drink and then drive.

The Panel was also struck by the officer's testimony that he had decided to buy the wine and drink it away from his house because he wanted to hide the fact that he was drinking and this contradicts the assertion that his drinking was somehow beyond his control. The Panel have been provided by various testimonials these are not considered here as per the College of Policing guidelines.

In addition, the Panel have considered that the misconduct in this instance was of a single episode limited in duration.

Admissions were made at an early stage if not immediately upon the officer's arrest.

The Panel noted the remorse shown by DI Giess in his live evidence and have no doubt that he has achieved personal insight and has taken responsibility for his actions.

As a Panel we find the level of mitigation in this case to be LOW.

Misconduct is defined in the Police (Conduct) Regs 2020 as 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 that is so serious as to justify dismissal.

Having considered all the factors above the Panel finds that this is a case where a finding that the officer has breached the Standards of Professional Behaviour and that it is so serious as to justify dismissal. **The Panel find that the officers' actions amount to gross misconduct.**

11.0 OUTCOME

11.1 Having determined that the breach of the professional standard, discreditable conduct constituted Gross Misconduct, the Panel must go on to decide what the disciplinary action should be.

11.2 The Panel had been assisted by submissions on the question of outcome, and having heard representations, the Panel then considered the appropriate outcome.

11.3 In determining the appropriate disciplinary action in this case, the Panel has had regard to the College of Policing's Guidance on outcomes in police misconduct proceedings (2022) ("the guidance") including the need to :

Assess the seriousness of the misconduct by reference to:

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.

- b) keeping in mind the purpose of imposing disciplinary action; and
- c) choosing the disciplinary action which most appropriately fulfils that purpose for the seriousness of the conduct in question so that the Panel act proportionately.

11.4 The Panel was also mindful of the principles set out in R (Chief Constable of Greater Manchester Police) v Police Misconduct Panel & Roscoe (HHJ Pelling QC sitting as a High Court Judge, November 2018) in which the Administrative Court emphasises the importance of following the structured 3 stage approach as set out in the guidance. The Panel adopted this approach.

11.5 With respect to seriousness, the Panel considered the 2022 Guidance on outcomes in police misconduct proceedings.

12.0 Culpability

12.1 This refers to the degree of blameworthiness. The officer was solely responsible for his actions, he made deliberate choices in the actions he undertook. D.I. Giess was an experienced officer and the expectations on him as an officer were clear.

The Panel found that his culpability was medium to high.

13.0 Harm

13.1 Of the “types” of harm categorised at Para 4.64 of the COP guidelines The relevant ones are :-

Harm to the public – The public need to be able hold the police in high regard. A criminal conviction for an imprisonable offence undermines the efforts of the police service in achieving this aim.

The further aspect of harm caused in this case is that of the **reputational harm** to South Wales Police and policing generally. The Panel find that the officers conduct would affect the reputation of the police service and those who serve within it. The present case cannot be considered in isolation from increasing public awareness of disciplinary issues within the police service, and consequently the reputational harm to any police force within which a former officer is found to have breached the SPB will inevitably be serious and damaging.

13.2 As was stated in the case of Fuglers LLP V SRA [2014] EWHC 179 (Admin) at [29] a factor of the greatest importance is the impact of the misconduct upon the standing and reputation of the profession as a whole. Moreover, the seriousness of the misconduct may lie in the risk of harm to which the misconduct gives rise, whether or not as things turn out, the risk eventuates.

The level of harm is assessed by the Panel as medium.

13.2 From the observations above, the Panel are clear that the actions of the officer have caused a risk or potential risk of serious and enduring harm to the reputation of the police service.

14.0 Aggravating factors:

14.1 The Panel has kept in mind that although there has been a breach of the SPB we are concerned with a course of conduct that took place over a short period of time. There will be no double counting in our assessment of harm and application of the principles dictating the outcome.

14.2 The Panel do not find aggravating features in this case beyond those features of the incident that have already been dealt with above.

The Panel find the level of aggravating factors to be low.

15.0 Mitigating factors:

The Panel found that there was very little mitigation as to the circumstance of the case. The officer bought the bottle of wine at a local store alongside some groceries to take home. He admitted remaining in his car for what he said was an hour drinking the equivalent of two small bottles of wine prior to driving the short distance to place where he was arrested.

As to his personal mitigation the Panel were presented with a significant amount of evidence in the form of medical reports, live evidence from Dr. [REDACTED] Davies and the officer's verbal evidence in relation to his [REDACTED] health which, it was argued by the officer, had affected his conduct in this case. A feature of this evidence was with regard to whether the act of consuming alcohol immediately prior to driving home, was voluntary or involuntary in nature.

It is clear that DI Giess has and continues to endure several stressors in the course of his personal and professional life. The Panel has the utmost sympathy for him.

The Panel have reviewed carefully all of the evidence placed in front of them. We noted from the various medical reports a pattern of increasingly heavy drinking over a number of years.

However, there were a few factors are of particular importance to the Panel.

DI Giess' assertion during his evidence that he was in control of his drinking and could compartmentalise his drinking away from workplace situations. This indicated to the Panel a degree of control which could have been exercised by the officer on that day and wasn't. The Panel was persuaded by Dr. Davies' position that an officer able to compartmentalise as DI Giess described would have had a high degree of ability to manage the journey home without the need to drink and then drive.

15.1 The mitigating factors considered on the officer's behalf are clear but unfortunately by their nature is limited in the particular circumstances of this case.

15.2 With respect to the purpose of imposing disciplinary action in police misconduct proceedings:

a) The primary purpose is to protect the public confidence in and the reputation of policing;

b) The second purpose is the declaratory purpose of maintaining high professional standards by demonstrating to other officers that misconduct of a certain kind and/or a certain seriousness will be dealt with by disciplinary action of a certain severity; and

c) The third purpose is to protect the public and/or officers and staff by preventing the officer from committing similar misconduct again by excluding them from the police service.

In *Redgrave v Commissioner of Police of the Metropolis* [2003] 1 WLR 1136 Simon Brown LJ (as he then was) at [33] approved the following dictum of Lord Diplock in *Zideman v General Dental Council* [1976] 2 All ER 334 at p.336: 72

“The purpose of disciplinary proceedings against a person convicted of crime is not to punish him a second time for the same offence but to protect the public who come to him as patients and to maintain the high standards and good reputation of an honourable profession”.
(emphasis added)

15.4 Personal mitigation is important and must be taken into account. The Panel have taken into account the mitigation put forward by Counsel for the officer.

However, the decisions above give clear guidance on the limited weight to be given to personal mitigation (as opposed to conduct mitigation) in professional disciplinary proceedings in general and police misconduct hearings in particular.

15.5 In *Bolton* Sir Thomas Bingham MR explained why personal mitigation carried less weight in the professional disciplinary context than the criminal context at p.519B-D “Because orders made by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences imposed in criminal cases. It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often, he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well- founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness.”

15.6 In conclusion, the Panel must take account of the officer’s personal mitigation, but the weight to be accorded to that mitigation:

a) is less than it would be in a criminal trial; and

b) is dependent upon the extent to which the officer’s misconduct threatens the public confidence.

16.0 Having followed the steps above, the Panel went on to choose the disciplinary action which most appropriately fulfils the purpose of imposing disciplinary action considering the seriousness of the conduct in question (bearing in mind the need to act proportionately).

16.1 The Panel went on to consider all the available outcomes.

The available outcomes at a misconduct hearing are:

- „ written warning
- „ final written warning
- „ reduction in rank
- „ dismissal without notice

16.2 The Panel considered all of the options above, especially whether a final written warning would be appropriate and proportionate given the circumstances and seriousness of this case.

16.3 The Panel also acknowledged the character references that have been provided, and how warmly people speak of their interactions with this Officer. Whilst of interest the guidance allows us to afford limited weight to this personal mitigation.

16.4 Our role as a Panel is to maintain public confidence in the reputation of the police service, uphold high standards, deter misconduct and protect the public. The Panel did not believe that this can be effectively and sustainably achieved via a final written warning.

17.0 The Panel therefore concludes that the appropriate outcome in this case must be one of dismissal without notice.

Signature: Jenny Gilmer

CHAIR

Date: 06/03/26

Signature: Elizabeth James

INDEPENDANT PANEL MEMBER

Date: 06/03/26

Signature: Mark Rees

INDEPENDENT PANEL MEMBER

Date: 06/03/26
