

SOUTH WALES POLICE

NOTICE OF OUTCOME OF POLICE MISCONDUCT HEARING

(Regulation 43 Police (Conduct) Regulations 2020)

CHAIRPERSON'S ACCOUNT

OFFICER CONCERNED: PS RHODRI DAVIES.

DATE OF HEARING: 6TH January 2025 to 16th January 2025.

VENUE: The Waterton Centre, Bridgend.

NAME OF PERSON CHAIRING: Christopher Mckay

NAMES OF PANEL MEMBERS: Adrian Roberts-Walsh (IPM) and Superintendent Brian Gibbs

ALLEGATIONS OF BREACHES OF STANDARDS OF PROFESSIONAL BEHAVIOUR

See attached Regulation 30 Notice

BACKGROUND

PS RHODRI DAVIES joined South Wales Police in 2004. He has been a sergeant since 2009. On 24th October 2022 Mr Tariq Evans was arrested in Morriston, near Swansea, for various criminal acts. These included assaulting a police officer. During the journey to the Swansea Central Police Station Mr Evans was at all times in a spit hood and handcuffed to the rear. While being conveyed to the police station Mr Evans was assaulted by PC Jack Williams who punched him several times to the face. PC Williams was subsequently convicted of assault and sentenced to a term of imprisonment in respect of the assault. As a result of the assault PC Williams is no longer a serving police officer. When the police van containing Mr Evans reached Swansea Central Police Station he was taken to the custody suite for processing. The removal of Mr Evans from the van and his subsequent treatment in the custody suite and the adjoining cells has been captured on various CCTV cameras and the body worn video cameras of the officers who dealt with him. Mr Evans remained handcuffed to the rear until he was placed in a cell.

The video recordings show the spit hood being removed at the custody desk, after which Mr Evans knelt down to spit onto the removed spit hood. He needed to do this to try and reduce the effects of the PAVA spray which he had been subjected to prior to him reaching the police station. He then stood up and was in conversation with the several police officers who were in the reception area at that time when he was taken to the ground by PS Davies. It is alleged by the Appropriate Authority (AA) that this action by PS Davies was unnecessary, disproportionate and unreasonable. Whilst on the ground PS Davies struck Mr Evans on several occasions and

swore at him. It is alleged that these strikes were also inappropriate and in breach of the standard of professional behaviour of Use of Force. The AA alleges that PS Davies lost his temper and this caused him to act as he did.

Mr Evans was dragged to his feet and taken to the cells. As he was pulled to his feet, it was alleged in the Regulation 30 notice, that the method used by PS Davies was unsafe. It is also alleged that when Mr Evans had regained his feet PS Davies struck him again on one or more occasions. Thereafter, Mr Evans was conveyed to a cell and his clothes were removed. Whilst this was done he was restrained by a number of officers including PS Davies. It is alleged that PS Davies used a dangerous restraint on Mr Evans in the cell, namely, a "c-clamp" across the back of his neck applying downward pressure. Furthermore, he used several knee strikes on Mr Evans which were unnecessary, disproportionate and unreasonable.

The AA allege that the force used by PS Davies on Mr Evans was unlawful.

Although other police officers witnessed PS Davies' actions none of them complained at the time. It was not until the 10th November 2022 that PC Rees spoke to Inspector Easton about what he had seen. He was standing in the reception area of the custody suite and saw PS Davies take Mr Evans to the ground. PC Rees told the Inspector that he had seen PS Davies take Mr Evans to the floor and then punch him for no apparent reason. It was following this disclosure that an investigation into what happened to Mr Evans in the custody suite was instigated.

FINDINGS OF FACT

In considering the allegations in the Regulation 30 Notice The Panel bore in mind that the burden of proof is on the AA and the standard of proof is the balance of probability. That means that the Panel must be satisfied that it is more likely than not that a fact is true before it can find it proved. The Panel read the hearing bundle consisting of 409 pages and viewed the compilation video of 23.51 minutes before the hearing commenced. The video included CCTV from the custody suite and body worn video (BWV) from several police officers who were present at Swansea Central Police Station as events unfolded.

PS Davies is of good character. The Panel received 10 character references in a bundle in support of PS Davies which were labelled D1. In addition, the Panel received a reference from Dean Evans (D2). A written confirmation of a letter of thanks which was sent to PS Davies for 2 arrests in 2006 is labelled D3. The relevance of PS Davies' good character is twofold, first his good character supports his credibility. It is a positive feature which the Panel has taken into account when considering whether it accepts what he said in oral evidence and in his written responses to the allegations as being true. Second, the fact that he has no previous convictions or disciplinary findings against him makes it less likely that he has committed the acts alleged against him. The Panel received a joint addendum from the 2 experts, PC Beth Hawke and Mr Martin Graves. This is dated 10th January 2025 and labelled A1.

At the start of the AA's case the Panel viewed the compendium of CCTV and BWV evidence which was 23 minutes 51 seconds long. The Panel then heard oral evidence from the following witnesses called by the AA; Inspector Easton, Inspector Emma Jones, D.C Evans, D.C.Everson, Gavin Lemon and D.C.I. Cole.

The Chair then called PC Rees, PC Rickwood, PC Harry, CDO Alexis, Inspector Jones and PS Griffiths. This procedure was adopted because the AA did not wish to call the witnesses and did

not accept their evidence as being accurate. By the Chair calling the witnesses, both AA and Defence Counsel were able to cross examine them, which the Chair considered to be a fair way of dealing with their evidence. PC Beth Hawke and Mr Graves then gave evidence and were called by the AA and Defence respectively. They were called one after the other before the close of the AA's case so that the Panel could compare their evidence more easily. This was done with the agreement of both parties. The final witness to give oral evidence prior to the Defence case was Mr Haley (a former Inspector). It was hoped that CDO Wayne Thomas would give oral evidence, but he had a family bereavement recently and the funeral was on the 8th January 2025. He did not wish to attend and it was decided not to take steps to enforce his attendance. He had a valid reason not to attend and his statements would be admitted as hearsay evidence with the usual warning about them carrying less weight than oral testimony due to the inability of the advocates to put questions to him and the fact that the Panel members would not be able to see him giving evidence and question him themselves.

On day 6 of the hearing (13th January 2025) Mr Walters, Counsel for the AA, applied to amend the Particulars in the Regulation 30 Notice in relation to the unsafe technique used to bring Mr Evans to his feet by adding the words "or lower arms" after the word "handcuffs". Mr Banham objected to this on the basis that nearly all the AA's witnesses had by that point completed their evidence and he had cross examined them on the basis of the Particulars in the original Regulation 30 Notice which had been read out at the start of the hearing. He said that PS Davies would be prejudiced if the amendment was allowed. The Panel was advised by the Chair that the amendment should only be allowed if it was fair to the officer and it could be done without causing injustice. The Panel decided that allowing the amendment would be unfair to PS Davies and would have the potential to cause injustice because his Counsel had questioned all the witnesses, including the experts, on the basis that the criticism of his technique was his use of the handcuffs to pick up Mr Evans from the floor. The amendment was a material change to the AA's case. It was too late in the proceedings to do this fairly. It would not be a realistic option to recall all the witnesses to deal with this new allegation. The application was refused.

At the close of the AA's case, Mr Banham made a submission of no case to answer in relation to 2 issues in the particulars alleged in the Regulation 30 Notice. The first submission was in relation to the allegation that PS Davies used an unsafe technique to bring Tariq Evans to his feet, namely by using the handcuffs. The second submission was in relation to the allegation that after Tariq Evans was conveyed to the cell and while he was on the ground PS Davies repeatedly used knee strikes on him. The Panel applied the following test in considering whether PS Davies had a case to answer: is there any potentially credible evidence upon which a properly directed Panel COULD find the alleged facts proved on the balance of probability? The Panel decided that there was no evidence that PS Davies had lifted Mr Evans to his feet by his handcuffs. The CCTV and BWV evidence showed that PS Davies had grabbed hold of Mr Evans' arms to lift him. The Panel therefore allowed the submission of no case on this aspect. However, the Panel saw evidence in the CCTV and BWV footage of PS Davies making knee strikes to Mr Evans in the cell and the Panel also noted that in his Regulation 31 response PS Davies had admitted making 2 knee strikes to Mr Evans in the cell. Therefore, the Panel rejected the no case submission on this aspect.

PS Davies gave oral evidence to the Panel. He referred to his Regulation 31 response. He denied that he had breached any of the Standards of Professional Behaviour. He said in his Regulation 31 Response that he was fully aware of police powers to use reasonable force in justifiable

circumstances under section 117 of the Police and Criminal Evidence Act 1984, S.3 of the Criminal Law Act 1967, the Common Law and the Human Rights Act 1998.

The findings of the Panel on the Particulars in the Regulation 30 Notice are now set out.

- (i) The Panel finds that on the 24th October 2022 PS Davies was on duty at Swansea Central Police Station custody suite when Tariq Evans, who had been arrested previously by other police officers was conveyed to the custody suite. The Panel further finds that at all times Tariq Evans was handcuffed to the rear, both at the custody desk and until he was in the police cell in the custody suite. These facts are not in dispute.

- (ii) The Panel finds that it has been proved that at the custody desk PS Davies took Tariq Evans to the ground and struck him on 3 occasions. The Panel further finds that such actions were unnecessary, disproportionate and unreasonable and the force used by PS Davies was unlawful. These findings are made by the Panel after viewing the CCTV and BWV footage on numerous occasions before and during the hearing and subsequently after the Panel had retired to consider the evidence. In coming to these conclusions, the Panel has taken into consideration behaviour of Mr Evans in Morriston and in the police van prior to his removal from the van at Swansea Central Police Station. There is no doubt that at that time Mr Evans behaved in a violent manner towards other police officers, but PS Davies was not involved with the arrest or initial detention of Mr Evans. The Panel has taken into account the oral and written evidence of those who were present in the custody suite at the material time. The Panel is well aware that, with the exception of PC Rees, none of the police officers present in the custody suite were prepared to criticise or question the way PS Davies dealt with Mr Evans. The Panel do not accept their evidence as being correct. The Panel finds that the police officers who had a good view of what happened between PS Davies and Mr Evans were PC Rees, PC Rickwood, PC Harry, and Inspector Jones. CDO Alexis and CDO Thomas also had good views of what occurred. All of these people were standing in the reception area at the time Mr Evans was taken to the ground by PS Davies. PS Griffiths was seated in the custody suite reception area, attempting to process Mr Evans. Her view of what occurred was partly obscured by PC Rickwood, who was stood immediately in front of her, and the desk and partition behind which she was seated. The lower portion of this structure was solid so when Mr Evans went to the ground he went out of her view. The Panel has concluded that those present have not been prepared to criticise PS Davies' actions out of a misguided sense of loyalty to him, and possibly, the South Wales Police force. The Panel have had a number of days to assess PS Davies' character during the hearing. He was undoubtedly an influential figure at Swansea Central Police Station Custody Suite when he worked there in 2022. He has a strong personality which he revealed during the hearing when he was prepared to interrupt proceedings on occasions to correct any inaccuracies he perceived. On occasions his Counsel had to ask him to keep quiet during the proceedings. It is significant that PC Rees, who instigated this disciplinary process by telling Inspector Easton, on the 10th November 2022, that he had seen PS Davies take Mr Evans to the ground for no obvious reason and then punch him for no apparent reason, has subsequently been

less prepared to question PS Davies' actions when preparing his written statements on the 4th April 2023, 28th November 2023 and 22nd July 2024. When he gave oral evidence, PC Rees said that he could not now recall what he had told Inspector Easton. However, he also said that he didn't lie to the Inspector and that what he said to Inspector Easton was an honest account. When he was questioned by Mr Walters, Counsel for the AA, he said that he didn't know whether the blows struck by PS Davies were necessary or not. He said he couldn't see or hear a reason for the take down. The Panel accepts that PC Rees' comments to Inspector Easton were partly motivated by what he considered to be an unfairness to his colleague PC Williams, who had been accused of misconduct by assaulting Mr Evans in the van, while no action had been taken against PS Davies. However, this motivation does not invalidate his comments about PS Davies, it provides a reason why he was the only police officer present who has questioned PS Davies' actions in the custody suite.

The Panel has carefully considered the CCTV and BWV footage which shows PS Davies holding Mr Evans in the reception area immediately prior to Mr Evans being taken to the floor by PS Davies. In his Regulation 31 Response PS Davies said that as he held Mr Evans in a restraint grip, he felt him tense up. He was extremely concerned that Mr Evans could assault him by biting him or headbutting him, particularly due to his close proximity when they were standing next to each other. PS Davies stated that Mr Evans tensed even more and, due to his sheer size and strength, he forced his arms downwards. He claimed that this action caused him immediate pain and discomfort due to his right arm being interlocked through his left arm, near to his left rear shoulder area. PS Davies said that he believed and feared his arm was going to snap so he quickly took Mr Evans to the floor by the custody desk. The Panel has carefully looked at the CCTV and BWV evidence and has found no evidence that Mr Evans forced his arms downwards immediately prior to PS Davies taking him to the ground. There are clear images of PS Davies' face immediately prior to the 'take down' and none of them show him grimacing or in apparent pain or discomfort. The Panel rejects PS Davies' evidence that it was necessary, proportionate and reasonable to take Mr Evans to the ground. He was not in any apparent pain and could have adjusted his grip or asked for assistance if he was in difficulty dealing with Mr Evans. In the Panel's judgement PS Davies had control of Mr Evans immediately prior to the take down and Mr Evans was not exhibiting significant physical resistance to PS Davies at that time. The fact that Mr Evans was making threats to those present was not sufficient reason to take him to the ground. PS Davies has been a boxer, he was 6ft 2ins tall and weighed over 15 stone at the time. In the Panel's judgement he had the strength to contain Mr Evans once he had established a firm grip on him. There has been criticism of PC Rickwood for letting go of Mr Evans and walking in front of him to speak to PS Griffiths who was in charge of registering the detainee. There is no visible evidence from the CCTV or BWV that this caused Mr Evans to become more aggressive or more difficult to restrain. PS Davies appears to be managing to control him perfectly well on his own. The Panel has considered what caused PS Davies to take Mr Evans to the floor. It is likely that he had enough of his abusive comments and lost patience with him. It appears from the CCTV that there was an exchange of words between them and whatever Mr Evans said to PS Davies was the trigger for the take down. PS Davies gave evidence that he said "Chill out mate" to Mr Evans. This is not accepted by the AA. In the Panel's judgement it is more likely that he said "shut up" as was suggested by the defence expert, Mr Graves, in his evidence. It is also significant that just prior to the take down Mr Evans said, "Can you get him off me?" referring to PS Davies. He also said, "I'll be sound, I'll be sound" which indicated an intention to cooperate with PS Davies. The movement when

PS Davies took Mr Evans to the ground was reckless. He did not have full control of Mr Evans as he spun him round and as a result Mr Evans nearly collided with the wall in the custody suite. The take down to the ground was particularly dangerous because Mr Evans had both hands handcuffed together behind him. As a result, he was unable to break his fall and was reliant on PS Davies to protect him from injury. Once on the ground PS Davies struck Mr Evans 3 times. When he did this Mr Evans was lying face down on the floor of the reception area with his arms behind him still in handcuffs. As he struck Mr Evans he said to him, "Once, once I'll tell you right? Do you understand? Fucking once, fucking prick, do you understand, calm down you fucking arsehole, you are not fucking hard, you prick! Shut your fucking mouth!". These words are set out in the report of PC Hawke who is the AA's expert on use of force. In her opinion the use of this language by PS Davies suggests that he has momentarily lost control of his actions. The Panel finds that the words used by PS Davies when he struck Mr Evans are inappropriate and do show that he had lost his temper. The Panel reject the suggestion by PS Davies that he struck Mr Evans to secure his compliance. Mr Evans was in a relatively powerless position, face down on the floor with his hands in handcuffs which meant his arms were behind him. PS Davies was on top of him and Mr Evans posed no significant threat to anyone at that stage. PS Davies stated in his Regulation 31 Response that he struck Mr Evans twice to his rear upper body to immobilise a joint and gain compliance as he continued to struggle. The Panel rejects this explanation. The strikes were to the front of Mr Evans and made in temper and not for any proper policing purpose. Despite the evidence from a number of witnesses that bad language towards detainees can be acceptable, the Panel is of the view that the language used by PS Davies was not justified in this case by the circumstances. Indeed, there was a significant risk that the language used by PS Davies would enflame the situation.

The Panel considered the provisions of s. 117 of the Police and Criminal Evidence Act 1984 which states that an officer may use reasonable force, if necessary, in the exercise of any of his powers. The Panel do not find that it was necessary for PS Davies to exercise the level of force that he used against Mr Evans. The force he used was unreasonable and excessive. The Panel does not accept the explanation of PS Davies that he believed that his arm was going to snap. The Panel finds that this fear that PS Davies claims to have had is an invention by him to try and justify the level of force used by him against Mr Evans. The Panel also considered the provisions of s.3 of the Criminal Law Act 1967 which states that an officer can use such force as is reasonable in the circumstances in the prevention of crime or in assisting in the arrest of offenders. This does not excuse the acts of PS Davies. Section 76 of the Criminal Justice and Immigration Act 2008 states that reasonable force can be used for the purposes of self defence. In the Panel's judgement PS Davies was not acting in self defence when he took Mr Evans to the ground and struck him 3 times. PS Davies used excessive and unnecessary force against Mr Evans in the custody suite. The Panel considered whether the Human Rights Act 1998 had any impact on PS Davies' position and decided it did not.

The Panel noted that the custody record for Mr Evans, at page 44 of the bundle, shows that he arrived at the Central Police Station Custody Suite at 20.25 on 24th November 2022. His detention was authorised by PS Griffiths at 20.34. On the next page at 20.44 there is a further entry which states that Mr Evans has a warning marker for ADHD on the police system. Had the system been checked earlier for markers, those involved in the detention of Mr Evans would have been alerted to the possibility that his mental health issues were impacting on his behaviour. This aspect was never considered by PS Davies. The next day at

6.34 there is an entry (page 58) which shows Mr Evans was prescribed Ritalin medication for his ADHD. The Panel does not find that PS Davies knew about Mr Evans suffering from ADHD when he aggressively took him to the floor of the Custody Suite. However, the Panel does find that had Mr Evans been processed more carefully and thoroughly by the staff in the Custody Suite they would have been aware of his mental health issues before he was treated so roughly by PS Davies in the reception area and by PS Davies and others in the cell area. The treatment of Mr Evans was unacceptable whatever his mental health status was but had the custody staff known he suffered from ADHD they could and should have shown him more consideration.

- (iii) The Panel finds that the allegation that when Tariq Evans regained his feet PS Davies struck him on one or more occasion has not been proved. The CCTV and BWV footage is unclear and the allegation is denied by PS Davies. It appears to the Panel that PS Davies is attempting to pull Tariq Evans to his feet and in so doing his grip on the detainee slips which may have resulted in contact. This does not appear to be a strike. There is no reliable evidence to prove this allegation.
- (iv) The Panel finds that the allegation that PS Davies used a dangerous restraint on Tariq Evans in the cell by placing his hand in a c-clamp across the back of his neck and applying downward pressure is found proved. The Panel accepts the evidence of the experts that head control would be utilised in cell relocation in order to prevent injury to the subject by banging their head on the floor. However, the Panel accepts the evidence of Beth Hawke that pressure on the neck area is not acceptable or safe. It is not an approved technique. The Panel carefully examined the BWV evidence of the events in the cell and saw conclusive evidence that for a period of time PS Davies had his hand across the neck of Mr Evans in a c-clamp grip. The Panel find this to have been unnecessary, disproportionate and unreasonable. None of the statutory provisions considered under (i) above assist PS Davies in justifying what he did.
- (v) The Panel finds that the allegation that PS Davies repeatedly used knee strikes on Tariq Evans has been proved from viewing the CCTV from the cell. PS Davies administered 3 knee strikes in quick succession. In the Panel's judgement there was insufficient time between the strikes for PS Davies to reassess the need for further strikes and therefore the second and third strikes were probably unnecessary, disproportionate and unreasonable and the force used was unlawful. It was not apparent from Mr Evans' behaviour that he was behaving in such a difficult manner that this level of force was justified. Where force is used it is for the person using force to justify it. None of the statutory provisions considered under (i) above assist PS Davies in justifying what he did.

BREACH OF STANDARDS OF PROFESSIONAL BEHAVIOUR

1. Use of force

Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances. This standard has been breached by PS Davies as explained in paragraphs (ii), (iv) and (v) under the Findings of Fact above.

2. Discreditable Conduct

Police officers do not behave in a manner that discredits the police service or undermines public confidence, whether on or off duty.

The way in which PS Davies treated Mr Evans fell well below the standards expected of a police officer, particularly when his experience and seniority are considered. As a Custody Sergeant PS Davies was expected to deal politely and respectfully with detainees, particularly when they appear to be drunk and are uncooperative. The Panel accepts the evidence that Mr Evans had been violent in Morrison and prior to his reception into the custody suite. However, once in the custody suite he was verbally aggressive but his presentation did not justify the aggressive way in which he was treated by PS Davies.

FINDINGS ON MISCONDUCT / GROSS MISCONDUCT

Misconduct is defined as a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.

Gross misconduct is defined as a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.

In the Panel's judgement the breaches of the standard of Use of Force are very serious. The way in which Mr Evans was taken to the floor of the Custody Suite reception area and struck to the body 3 times by PS Davies was particularly unnecessary, disproportionate and unreasonable. He was treated with unjustified violence. This is gross misconduct. The actions of PS Davies against Mr Evans in the cell were less serious. He was acting as part of a team, although he was unnecessarily aggressive in the way he dealt with the detainee. Mr Evans had to have his clothing removed because he had failed to cooperate with the police officers and the normal search procedure was not a realistic option. The period of time during which the inappropriate neck hold was applied was comparatively short. It has not been proved that Mr Evans suffered any specific harm from the knee strikes. PS Davies' dealings with Mr Evans in the cell constituted misconduct in the Panel's judgement.

The discreditable conduct has also been taken into consideration in reaching this assessment of seriousness. The proven allegations when taken together constitute gross misconduct.

FINDINGS ON OUTCOME, INCLUDING ANY AGGRAVATING OR MITIGATING FACTORS AFFECTING THE SERIOUSNESS OF THE FAILURES IN STANDARDS

The Panel has taken into account the submissions of Counsel for the AA and Counsel for PS Davies when considering outcome. The Panel has borne in mind the guidance from the College of Policing on outcomes in police misconduct proceedings.

The Panel first considered the seriousness of the misconduct found proved against PS Davies.

1. Culpability.

PS Davies was solely culpable for taking Mr Evans to the ground and striking him. His actions were intentional and deliberate. In the Panel's judgement PS Davies had no justification for what he did. The use of force was unnecessary, disproportionate and unreasonable. As a Sergeant of over 20 years' experience, of which 2 were in the Custody Suite, he must have dealt with numerous violent detainees. He knew the need for patience and restraint when dealing with persons who had been arrested. This was particularly the case when the detainee appeared to be under the influence of drink or drugs and may have been suffering from mental health issues.

2. Harm.

The Panel rejects Mr Banham's submission that there was no actual harm in this case. Mr Evans was roughly taken to the floor of the custody suite and was struck 3 times by PS Davies when he was on the ground. These acts were likely to have caused Mr Evans pain and probably bruising. The floor of the reception area was not carpeted and was a hard surface. The Panel has found that 2 of the knee strikes which PS Davies inflicted on Mr Evans in the cell were unnecessary, disproportionate and unreasonable. It is likely that these blows caused pain to Mr Evans. In addition to the physical harm which Mr Evans probably suffered, he is likely to have experienced psychological distress from the way he was treated by PS Davies. During the incidents in the reception area and the cell Mr Evans is heard to call out in apparent distress. For example, he cried out after he was taken to the ground by PS Davies and struck the wall of the reception area. He said "alright" after each strike from PS Davies when he was on the ground in the reception area. This indicated that he was not resisting.

The Panel is satisfied that PS Davies' actions had the potential to cause reputational harm to the South Wales Police Force. If members of the public were to learn about the way in which Mr Evans was treated in the police station by PS Davies they would be extremely concerned. A Police Station is supposed to be a safe place. Members of the public should be confident that they will be fairly and respectfully treated if they find themselves there. PS Davies' treatment of Mr Evans was anything but fair and respectful.

3. Aggravating factors.

- (i) PS Davies inflicted deliberate violence on Mr Evans in the Swansea Central Police Station.
- (ii) Mr Evans was vulnerable because he appeared to be under the influence of alcohol or drugs. PS Davies was aware of this.
- (iii) Mr Evans was vulnerable because of his mental health conditions. Although there is no evidence that PS Davies knew about this, he should have been alert to

the possibility that Mr Evans suffered from poor mental health and dealt more sensitively with him.

- (iv) Mr Evans was handcuffed to the rear at all times when he was in the reception area of the custody suite. This made him vulnerable as he was unable to defend himself from any unlawful acts which he was subjected to. He was also unable to put his hands out to break his fall when he was taken to the ground by PS Davies.
- (v) PS Davies had a leadership role in the Custody Suite as an experienced Police Sergeant. He was expected to be an example to the other officers, many of whom were PCs.

4. Mitigating factors.

- (i) The misconduct was confined to a limited period of time of about 8 minutes from the time Mr Evans was brought into the Custody Suite until he was left in the cell.
- (ii) Mr Evans was a challenging prisoner. He was 6ft 6ins tall and 17 stones in weight. He was argumentative, uncooperative and aggressive. He appeared to be under the influence of drink and/or drugs.

CONCLUSION

The Panel bore in mind that the purpose of the police misconduct regime is threefold:

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.

Personal mitigation.

There is significant personal mitigation in this case. PS Davies is 45 years old. He has been a serving police officer since 2004. He was promoted to Sergeant in 2009. He received a commendation for his work on a joint operation with the DWP in 2006. He has provided 11 written character references which attest to his merits as a police officer and his contributions to the local community. He is involved as a volunteer coach with a boxing club and has raised money for a local cancer charity. However, the potential of personal mitigation is limited. As Lord Justice Maurice Kay confirmed in the Court of Appeal in the case of *Salter v Chief Constable of Dorset* [2012] EWCA Civ 1047, "As to personal mitigation, just as an unexpectedly errant solicitor can usually refer to an unblemished past and the esteem of his colleagues, so will a police officer often be able to do so. However, because of the importance of public confidence, the potential of such mitigation is necessarily limited." In the case of *Williams v Police Appeals Tribunal* [2016] EWHC 2708 (Admin) Mr Justice Holroyde said, "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". The principle that can be gleaned from these and other authorities is that the 3 stated purposes of the misconduct regime are the most important considerations for this Panel. The interests of the

profession and the protection of the public are more important than the interests of the individual officer.

Outcome.

The Panel must consider the alternative outcomes available in ascending order of seriousness and impose the outcome that most appropriately fulfils the purpose of these proceedings, given the seriousness of the conduct in question.

The outcome must be the least severe which deals adequately with the issues identified, while protecting the public interest. The outcome must be proportionate, weighing the interests of the public with those of the officer.

The least severe outcome available is a final written warning. This can be for a period of 2 to 5 years and is designed to act as a deterrent to future misconduct. The misconduct in this case is too serious for this to be appropriate. The custody suite was a secure environment and Mr Evans was handcuffed within that secure environment. There was no need for PS Davies to use violence against Mr Evans in the manner he did, or indeed, at all. A final written warning does not adequately fulfil the purpose of these proceedings. In particular, the need to maintain public confidence in, and the reputation of the police service.

The next most severe outcome is Reduction in Rank. This would send a clear message to PS Davies and other officers that violence towards prisoners is not acceptable even when they are verbally aggressive and uncooperative. The Panel has already made clear in its findings on facts that at the time he was taken to the floor Mr Evans was not an immediate threat to PS Davies or any other police officers in the custody suite. There is no objective evidence that PS Davies was in pain at the time he took Mr Evans to the floor aggressively. These findings have resulted in the Panel concluding that PS Davies' actions were carried out when he lost patience with Mr Evans and resorted to unlawful violence against him.

If the Panel imposed either a Final Written Warning or Reduction in Rank PS Davies would continue to be a member of the police service. In the Panel's judgement this is not appropriate. His behaviour on the 24th October 2022 towards Mr Evans makes this an unacceptable outcome to the Panel. Mr Evans was a vulnerable person due to the possibility that he had taken drink or drugs, his mental health condition and the fact he was handcuffed. During the 2 weeks of this hearing, and even after the findings of fact the Panel made, PS Davies has made no acknowledgement or acceptance that his behaviour towards Mr Evans was in any way inappropriate. He has shown no insight. In the Panel's judgement Mr Evans treatment at the hands of PS Davies was deplorable.

In these circumstances the only appropriate and proportionate outcome is dismissal without notice.

SIGNED: Christopher Mckay (LQC)

Adrian Roberts-Walsh (IPM)

Superintendent Brian Gibbs

