

IN THE MATTER OF POLICE (CONDUCT) REGULATIONS 2020

Case Number: CO/224/24

HEDDLU GWENT POLICE

-v-

PC 2366 GRAHAM

1. The Panel sat on September 14th and 16th 2026 at Bisley Suite, Rodney Parade, Newport.
2. The Panel was chaired by Assistant Chief Constable John Wade sitting with Mr Keith Meredith and Ms Carli Evans (Independent Panel members) assisted by Mr Peter Cadman, the Legally Qualified Person.
3. Ms Amy Clarke, counsel, represented the Appropriate Authority (AA). Because of travel difficulties, she attended remotely on Monday September 14th but attended in person on Wednesday September 16th.
- 3.1 The Officer was represented by Mr Julian King, counsel.
4. The Officer faced the following allegations:

REFERRAL TO MISCONDUCT HEARING

NOTICE under Regulation 30 of the Police (Conduct) Regulations 2020 (6 pages)

Rank	Number	Name	Area/Department
Police Constable	2366	Jonathan Graham	Resource Co-ordinator

This is to notify you that the investigation into the alleged breaches of the Standards of Professional Behaviour made against you has been completed and a determination has been made that there is a case for you to answer in respect of gross misconduct, and the allegations have been referred to a misconduct hearing.

Details of the conduct that is alleged may have breached the Standards of Professional Behaviour are set out below:

On the 1st May 2024 you came into contact with Mr. Daniel Whittaker in the course of your duties and were responsible for conveying him from Blackwood police station to Ystrad Mynach police station. It is alleged that:

- (1) On the journey between Blackwood and Ystrad Mynach you said the following to Mr. Whittaker: "Dan last week you fucked around mate you're not going to be doing the same today....if you start like this again, you will be on the floor alright? If you carry on mate, you know what's going to happen alright."
- (2) At Ystrad Mynach, you took Mr. Whittaker by the arm and moved him towards a holding cell. At the door of that cell, you used force to deliberately push and/or propel Mr. Whittaker forwards into the cell. This caused him to fall. Such force was not reasonable, necessary or proportionate in the circumstances.
- (3) You provided a witness statement dated 1st May 2024. In that statement, you:
 - (a) stated that Mr. Whittaker had fallen because he had stumbled due to his intoxication;
 - (b) failed to make any reference to the fact that you had pushed and/or propelled Mr. Whittaker forwards before he fell.

In the circumstances, that statement was a deliberately misleading and inaccurate account of how Mr. Whittaker came to fall in the holding cell.

By using the language described at paragraph (1), and directing those comments at Mr. Whittaker, you have failed to treat him with respect and courtesy. Your conduct therefore engages the following Standard of Professional Behaviour: **Authority, Respect and Courtesy**.

By using force against Mr. Whittaker as described at paragraph (2) which was not necessary, reasonable or proportionate, your conduct engages the following Standard of Professional Behaviour: **Use of Force**.

In providing a deliberately misleading and inaccurate account as described at paragraph (3), your conduct engages the following Standard of Professional Behaviour: **Honesty and Integrity**.

Your conduct amounts to **Gross Misconduct**.

5. The Officer had filed a detailed Regulation 31 Response.
6. The Panel proceeded on the basis of the Regulation 31 Response namely that some of the alleged facts were admitted but the Officer denied breaches of Standards and denied that his actions constituted gross misconduct.

EVIDENCE

7. All evidence was considered by the Panel namely
 - (a) All the written witness statements and documents in the hearing bundle
 - (b) The video evidence.
 - (c) The oral evidence.
8. The Panel was helped in identifying the contested issues by the Regulation 31 Notice and the AA's Opening Note.

SUMMARY OF EVIDENCE

9. The following paragraphs 10 to 12 are a summary of the evidence heard and not a complete record. All evidence heard and seen was considered by the Panel, as were all the written witness statements and documents in the hearing bundle. Prior to the hearing, the Panel had viewed the video footage being the BWV together with relevant parts of the CCTV. These were again shown to the Panel during the AA's opening.
10. PS 1697 LIAM BROWN gave evidence:
- (a) On May 1st 2024, Daniel Whittaker(W) answered his bail. W caused a disturbance at the front desk and a member of staff informed the Sergeant about this. W was drunk and abusive. W is a prolific offender and well known to the Sergeant having many previous convictions including for assault on emergency workers and public order offences. W continued to swear and shout being very rude and very aggressive. W wanted a reaction, going on and on and tensing up. The Sergeant arrested him and handcuffed him. At the Sergeant's request, PC Scott and PC Graham took W to the custody suite. They had to drive him in an ordinary police car as there were no police vans available.
 - (b) The Sergeant has had previous dealings with W. Normally, W's reaction to the police is to try to run away but once located sometimes his behaviour would de-escalate but, on other occasions, he became violent and had to be restrained needing a number of officers.
11. PC 1699 HANNAH SCOTT gave evidence:
- (a) On May 1st 2024, she was working at Blackwood Police Station. She became aware that W had arrived and was causing a nuisance. He was intoxicated and swearing and not calming down. She was aware that W has a large number of previous convictions including public order offences and offences of violence. There are always risks when dealing with W. On this occasion, he continued to swear and was arrested by PS Brown and handcuffed. PS Brown and PC Graham pushed W against a wall. This was proper restraint as W was aggressive and tensing. She did not see W kick out at a car.
 - (b) She and PC Graham were tasked with taking W to the custody suite. There were no police vans available and they had to use a police car. W's behaviour was very unpredictable. She was in the back of the car with W. He varied from being calm to being aggressive, using vile language, clenching his teeth and leaning towards her. He pushed himself towards her and was clenching his teeth. She told him to stop. She has a vague recollection of PC Graham saying something about W would be on the floor. There was always a risk of violence with W and it is necessary to keep ones guard up all the time even when he was handcuffed. During the journey, there were moments of compliance and

moments when W wasn't compliant. She was aware that on past occasions it needed many officers were needed to restrain him

- (c) When they got to the custody suite, they manoeuvred W from the car. She did not have a good grip on W but would have used her hands moving him forward. W was pushing himself back to try to prevent the forward momentum. He was making it difficult for her and for PC Graham. She and PC Graham had their hands on W. Her understanding at the time was that PC Graham had just let go of W and W had stumbled. She did not feel the PC Graham had pushed W. She also accepted that she could not say what was in PC Graham's mind
- (d) She made a witness statement that day and had not seen her BWV at that time. However the next day she viewed her BWV and spoke to Sergeant Brown. When she later saw the video, it looked as though PC Graham had pushed W.

12. PC 2366 GRAHAM gave evidence:

- (a) He confirmed that his witness statement on May 1st 2024, his interview on June 11th 2024 and his Regulation 31 reply were truthful and honest. He joined the police in July 2021 having previously been a special constable. Although he has been off sick, he was never suspended and has been back at work since April.
- (b) On May 1st 2024 he was at Blackwood, someone from the front office came through to say that W was outside causing issues. W is well known and, on April 22nd 2024, PC Graham had been involved in an arrest of W when at least 3 or 4 officers were needed to restrain him.
- (c) W was outside the police station shouting and swearing. There were risks to the public and to officers. Sergeant Brown arrested W after W continued to shout swear and be aggressive. Sergeant Brown handcuffed W who became even more volatile and aggressive tensing up. W had to be restrained against a wall.
- (d) Sergeant Brown tasked him and PC Scott to take W to the custody suite. They had to use an ordinary police car as there was no police van available. PC Scott sat in the back and tried to de-escalate W who was firstly calm and then aggressive and this was repeated.
- (e) With regard to the first allegation, he accepted that he said the words as alleged are similar to what he had said. About a week before this incident, he had been with W in the police station. W had been racially abusive and another officer had used these very words to W. W had calmed down. He did not consider the words that he used were disrespectful to W in the circumstances. These are the same words as he had heard another officer use a week before to W and they were effective in calming W down. He felt that, if he used normal speech, it would not have calmed W down and W would have thought he was being mocked.
- (f) With regard to the second allegation, the aim was to get W into the cell. The journey to the custody suite was about 15 minutes. PC Scott had to verbally

and physically de-escalate W. W continued behaving aggressively when the officers stepped out of the car at the police station. The aim was to get him into the custody suite. He opened the rear door of the car and W pulled away and was tensing up and he sensed resistance from W.

- (g) He accepted that from the footage that they were in the building from the door to the cell in six seconds. He felt that he was more in control of W than PC Scott. He didn't need to break stride but W was resisting. He didn't notice the solid bench as he got to the cell door but accepted that he knew it was there as he had been in that cell multiple times. The push was not unnecessary. W was not compliant they needed to get him into a safe space. He was to the rear of W and he and PC Scott were aware that W was leaning back. He had to use some force to move W forward and PC Scott did not have a firm grip of W. He accepted that he pushed W to get him into the cell although he had not realised this at the time. He pushed W to create a safe distance between the two of them. W stumbled and there was no intention to hurt W.
- (h) On reflection, he could have alerted CDOs to assist. At the time he thought their use of force was required as W was resisting. The intention was just get him into a cell. W was handcuffed with his hands in front of him and he could have used the cuffs as a weapon or headbutted the officers. There was a massive risk.
- (i) Later, when W was being booked in, he was still aggressive, He was striking at the wooden panel in the custody suite and was still using threatening language to him and to PC Scott. Arrangements were made for W to be seen by the nurse and he received medical treatment.
- (j) With regard to allegation 3, he made his witness statement after the booking in process had completed. There was no attempt to minimise or hide. W was complaining of injury and he did notify PS of this by radio. There was no attempt to hide the injury. On seeing the video, it does show a push. However, at the time that he made his statement, he didn't think he had pushed W. The witness statement was not an attempt to downplay a push. He had not left that out to mislead. He was fully aware of the cameras in the custody suite and that PC Scott had her BWV working as she had said this in the car to W. He was aware that all was recorded.
- (k) He has had a massive period of self-reflection in the 2 years since the events.

13. DECISION ON FACTS/Breaches of Standards and Gross Misconduct

- 13.1 The Panel gave careful consideration to all the material presented to it and the evidence including oral evidence, witness statements and video evidence.
- 13.2 The Panel reminded itself that the burden of proof is on the AA and the standard is the balance of probabilities.
- 13.3 The Panel was helped by the opening note provided by the AA and by the written closing submissions provided on behalf of the officer. The Panel also heard very helpful oral closing submissions.

13.4 The Panel found that all the witnesses who gave evidence did so in a professional manner and were credible.

13.5 The Panel noted the highly positive character evidence on behalf of the Officer from a breadth of referees.

13.6 In reaching its conclusions, the Panel bore in mind that the Officer was aware of the character and antecedents of Mr. Whittaker. This included knowledge of convictions for offences of violence and that on previous occasions it had taken three or four officers to restrain him.

14. ALLEGATION 1

14.1 With regard to allegation one, the Officer accepted that the words were said. The Panel did bear in mind the context in which they were said and accepted the Officer's evidence that the week before similar words addressed to Mr Whittaker when he was making racially offensive comments in a custody suite and that resulted in de-escalation of Mr Whittaker's behaviour. The Panel took the view that the language used was appropriate in these particular circumstances with words that were in a terminology that Mr Whittaker would understand. The panel noted that Mr Whittaker's behaviour did de-escalate for a time after the words were said. The words were not said in public and the only people present with the prisoner and PC Scott.

14.2 The Panel found that, in the particular circumstances at the time the words were said, they did not constitute a breach of the Standard Authority Respect and Courtesy.

15. ALLEGATION 2

15.1 With regard to the second allegation, the Panel noted that this incident, from the moment of entering the custody suite to the cell, took place within six seconds. The Panel took care not to freeze frame the video footage. The Panel accepted that W still posed a threat even though he was handcuffed. He was a volatile prisoner with a history of a violence and his behaviour was unpredictable. The Officer was aware of Mr Whittaker's violent history, his previous assaults on emergency workers and that on previous occasions it had taken four or five officers to restrain him. The Officer was also aware of W's behaviour prior to his arrest, at the time of his arrest, immediately after his arrest and in the car. The Panel noted that the AA accepted that the Officer did not intend to harm W.

15.2 The Officer was aware that PC Scott did not have a good grip of the prisoner. Although the prisoner was handcuffed, those cuffs were to the front and above the prisoner's head capable of being used as a weapon. The Panel noted the reaction of the officer after the prisoner fell to the ground and found that this was consistent with shock as to what had happened as a result of proper level of force. The Panel viewed the action of the Officer and his use of force to be reasonable, necessary and proportionate in the circumstances.

15.3 In these particular circumstances, the Panel did not find that the allegation of breach of the Standard of Use of Force was proven.

16. ALLEGATION 3

16.1 In regard to the third allegation, the Panel noted that this allegation was based on the witness statement given by the officer shortly after the incident. It was given at a time before he had seen any video footage.

17. The Panel accepted that, at the time he gave the statement, he honestly believed that there had not been a push. The Panel found that the statement was an accurate record of events as he believed them at the time that he made the statement.

18. In these circumstances the allegation of breach of the standard of Honesty and Integrity is not proved.

CONCLUDING COMMENTS

19. The Panel wish to make it clear that this was a properly brought case. It is in the public interest that matters such of these are aired and decided in public.

20. The Panel was made aware that Mr Whittaker had been made aware of the hearing date but had not attended.

21. It is perhaps disappointing and obviously a matter of stress for the Officer that it is taken so long for this hearing to take place.

22. The decision should be publicised in the normal way.

23. The Panel thanked the Officer and the witnesses for attending and giving evidence. The panel acknowledged the impact these proceedings have had on all the parties involved. The Panel hoped that Mr Whitaker has recovered from his injuries and is able to move on with his life.

24. The panel hoped that the Officer has now been afforded closure to this investigation and can move on with his policing career.

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