

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2012

CONCERNING

Former PC 71 Joslyn

**DECISION**

1. In coming to its decision on facts the Panel had regard to the oral submissions of the Appropriate Authority (AA), and the detailed written responses from Mr Clarke Joslyn. The Panel had regard to all the evidence both oral and documentary. It was reminded that it is for the AA to prove its case and that there was no burden on Mr Joslyn to prove anything. Mr Joslyn did not attend the hearing however, the Panel drew no adverse inference from his non-attendance.

2. The standard of proof applied when considering whether the allegations are made out is that of the balance of probabilities. i.e. whether it is more likely than not to have occurred. It bore in mind that these are serious allegations and it had particular regard to the Home Office Guidance (Nov 2017 edition) on the standard of proof. The Panel accepts that it has to look at the facts critically; before it can be satisfied to the requisite standard might be the inherent unlikelihood of the occurrence taking place, the seriousness of the allegation, and the consequences which could follow from acceptance of proof of the relevant fact. This emphasis does not covertly elevate the standard of proof. That remains as the simple balance of probabilities. Rather, it reflects the principle that the more serious the allegation, the greater the need for evidential clarity. The Panel had in mind the case of *Re H & Others (minors)* [1995] UKHL 16, [2006] AC 563 at [73] where Lord Nicholls of Birkenhead stated:

*“The balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind as a factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and, hence,*

*the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability.”*

3. In relation to witnesses generally, the Panel bore in mind that an honest witness can be mistaken and that a mistaken witness is not necessarily wrong about every fact. The Panel was satisfied that it did not have to resolve every issue that arose in the case, or every conflict of evidence, only such as would enable the Panel to fairly and properly determine whether it found the individual elements of the allegation proved or not proved.

4. The Panel had numerous documents before it which included: a bundle of witness statements 442 pages; a documents relevant to the case bundle 1151 pages; interview transcripts 759 pages; an updated bundle 169 pages; a defence bundle 750 pages; a regulation 21 response in excess of 50 pages and a number of other individual documents and submissions.

### **Background to the case**

5. Mr Joslyn was a police officer for 26 years, having joined the service in 1992, after 2 years as a police cadet. He was deployed in many operational and training roles and often impressed his fellow officers and supervisors. In the course of his service, like many officers, the AA alleged that Mr Joslyn formed a number of personal and intimate relationships with colleagues, including his present wife. The AA asserted that there was something of a pattern, that many of those with whom he formed such relationships were some years younger than him. This case concerns whether, in the course of two personal relationships with colleagues, Witnesses D and E, Mr Joslyn behaved in ways which amount to gross misconduct. Mr Joslyn denies all such allegations. His defence appears to be that he was not always a “good boyfriend” but at no time did his behaviour towards either of the witnesses, each a former long-term partner, cross the line into criminal or other behaviour, such that it could be termed gross misconduct for a police officer.

6. The Panel heard oral evidence from three witnesses on behalf of the AA and it heard from two witnesses that were on Mr Joslyn’s list of witnesses to call, had he attended.

In addition to this oral evidence the Panel had regard to all the written statements presented to it. It bore in mind that those statements had not been tested in cross examination. The Panel therefore attached such weight to those statements where it thought relevant to any particular charge.

7. In considering the case, the Panel took into account Mr Joslyn's defence in so far as it can be gleaned from the documents before it. The Panel had regard to the interview records of Mr Joslyn, where he submitted written responses to the allegations under the serving officer provisions, including a detailed document under Regulation 22. Mr Joslyn feels that he is the subject of a smear campaign by the two complainants D and E, and an unfair and biased investigation by PSD. Mr Joslyn's defence in his documents can be summarised as follows:

- a. The behaviour was off duty.
- b. He has the right to express himself in private in ways which would not be acceptable on duty. In fact he submits some private matters should not have been used as evidence at all.
- c. The PSD investigation against him was unfair and the investigators were unreasonable in their approach to many of the issues.
- d. Large portions of the evidence are irrelevant hearsay, rumour and canteen gossip.
- e. Witnesses D and E are fundamentally unreliable, including because they did not disclose all of their allegations from the beginning.
- f. His behaviour towards the witnesses was, at worst, "foolish" and he was not "a good boyfriend".
- g. Other officers have behaved worse than him but have not even been investigated, which he suggests means that he has been victimised and singled out.
- h. He has been deprived of important evidence because of the passage of time.
- i. The messaging evidence whether by Facebook, WhatsApp or text presents a partial picture, which does not fully reflect his behaviour or that of the witnesses.
- j. He should have been arrested earlier so as to put his denial on record nearer the time.
- k. The interview process was too long and the interviewers and investigators

did not “know what was going on”.

l. There has been undue delay in the case as a whole.

m. Evidence that would undermine the allegations was missed or ignored by the investigators.

n. In respect of Witness D:

i. He makes many general points about delay, loss of evidence, unfairness and the CPS decision not to prosecute.

ii. He says Witness D’s letter of 11 February 2012, detailing his behaviour, cannot be genuine because he has a timed photograph of her from that evening, which means she cannot have written the letter when she says she did.

iii. Her allegations about bruising cannot be true as other witnesses do not recall seeing them.

iv. In respect of all of the most serious allegations of violence and threats of serious violence, control, offensive and abusive language, Witness D he says is lying, misrepresenting events, or is “muddled”.

v. Witness D he said, has mental health problems, which may partly explain her false allegations against him.

vi. Witness D, he said, has lied about when the relationship ended and his contact with her later was not harassment or attempted control of an unwilling former partner but part of their ongoing relationship. He behaved in a normal way in that context.

vii. His frequent personal use of the police Tetra point to point facility was perfectly acceptable and was not harassment but to make routine domestic arrangements, such as picking Witness D up from work.

viii. Witness D’s claim that he frightened her with a firearm was not true and she is not really scared of firearms because she subsequently applied (unsuccessfully) to join the force Firearms Unit.

ix. Witness D was not “put off men” by him, as she claims, but in fact went on to have relationships with other officers after him.

x. He never had a Taser at home, when off duty.

o. In respect of Witness E:

- i. He never, controlled, coerced, bullied, assaulted or raped Witness E.
- ii. Witnesses D and E know each other; the implication being that they may have colluded to falsely accuse him.
- iii. Witness E was in fact obsessed with “getting back” with him and would not accept the end of the relationship.
- iv. Witness E is unreliable and dishonest, evidenced by her dismissal for gross misconduct, her approach to an Employment Tribunal case and dishonest applications for employment thereafter.
- v. At worst he was not a good boyfriend to Witness E, childish and immature, but at no time did his behaviour amount to misconduct, let alone gross misconduct.
- vi. The allegations of physical violence and threatening Witness E while holding a knife are false.
- vii. All of the messages considered offensive and discriminatory messages from him were private and did not amount to misconduct. Some of them were just humour of the kind used by Ricky Gervais and Frankie Boyle. He says other officers have made similarly offensive remarks or posted such content on Facebook.
- ix. The anal rape allegation is completely false. There was no non-consensual anal sex on the night, as alleged, but consensual anal sex during the following day.
- x. Witness E’s allegations are malicious, premeditated and entirely motivated by a bitter desire to get revenge on him for ending the relationship, or at least for his failing to attempt to rekindle it.
- xi. He says missing messages would support his defence and demonstrate Witness E’s dishonesty and calculated falsehoods.
- xii. Witness E has used her inside knowledge of police procedures in an effort to make the allegations against him stick.
- xiii. Those to whom Witness E made disclosures were duty bound to report

them, even against her will, and this may suggest she did not make the allegations or that they were less serious than she now maintains.

xiv. The CPS decision not to prosecute is relevant.

xv. The messaging after the alleged rape supports his position rather than Witness E.

xvi. Any bruising to Witness E was not caused by him.

xvii. His messaging, including apparently controlling or insulting content to Witness E, is taken out of context and does not support the allegations of misconduct.

xviii. Witness E's malice extends to damaging the career of Mr Joslyn's wife.

8. In coming to its decision on the Charges the Panel had regard to the points Mr Joslyn has made. The Panel first considered the credibility and reliability of the witnesses from whom it heard.

9. Witness D- the Panel watched the ABE Interview of Witness D. She attended the hearing and gave evidence to the Panel. In May 2012 Witness D reported that Mr Joslyn was harassing her after the end of their relationship. In her statement 1/6/2012 she confirms that she had received an email from Mr Joslyn despite the formal Harassment warning he was given. In that statement she stated "I do not wish to pursue a criminal complaint at this time but do want the matter to be dealt with internally and for Clarke to stop all contact with me".

10. The Panel had an opportunity to ask Witness D questions and it considered points that Mr Joslyn might have put to the witness if he were present.

11. Mr Joslyn in his regulation 22 response submits that many of the incidents "did not take place, or took place, but in an entirely different context".

12. Mr Joslyn in his submissions stated that there were discrepancies in the evidence, Witness D gave in 2012 and her evidence in 2015. He stated that in her interview she said that after her relationship with Mr Joslyn came to an end she could not form a relationship with anyone else until she met her current husband. Mr Joslyn stated that

there was evidence to suggest that this was not true and that she went out with a number of people after her relationship with Mr Joslyn had ended.

13. The Panel asked her about these points. She explained why matters were raised in her 2015 statement were in more detail than in her 2012 statement. In essence she told the Panel that the Officer asking the questions in 2015 was a more senior and experienced Officer whose approach to her was different. In respect of other boyfriends she said that whilst she had "dated" individuals after her relationship with Mr Joslyn, they were brief and it was not until she met her current husband that she felt that she could form what she described as a proper relationship with another man. She was asked if she colluded with Witness E which she denied. She explained that she had contact with Witness E and estimated that she met her about five times. There was some discrepancy between her evidence and that of Witness E as to where they met. The Panel had to consider the overall reliability of Witness D and whilst there were some discrepancies as to when and where Witness D and Witness E met, it considered that this was as a result of the passage of time having an effect on memories. The Panel did not consider that this diminished the credibility of Witness D.

14. The Panel considered whether Witness D was motivated by revenge to harm Mr Joslyn and whether she had colluded with Witness E. The Panel found her to be a compelling witness. Her evidence contained significant detail, she did not present to the Panel as a witness who held a grudge against Mr Joslyn. On the contrary, Witness D in her evidence before the Panel came across as an individual who was more surprised and critical of herself for being in, and remaining in a relationship with Mr Joslyn rather than driven by revenge.

15. Mr Joslyn also sought to undermine the note/letter to herself, written by Witness D on 11/2/2012. He stated that this could not be correct because he had taken a photograph of her in 2012, 10 minutes he said before she wrote this note. He asserted that it was therefore impossible for her to have written that note at 2250 hours as alleged by witness D.

16. The Panel considered this evidence which is a photocopy of an upload of a photograph on to a computer desktop screen and properties of when it was created, modified and accessed on a computer. Without more, this evidence does not prove

that the photograph was taken at that time. Furthermore, the Panel would have had a number of questions for Mr Joslyn regarding his document had he been in attendance.

17. In conclusion the Panel saw no reason to doubt the veracity of Witness D's evidence.

18. Witness E- the Panel watched the ABE Interview of Witness E. She attended the hearing and gave evidence to the Panel. It was clear from her evidence that she found the breakup of the relationship with Mr Joslyn very difficult. She was also candid about her feelings and how she felt at the time when she discovered Mr Joslyn was cheating on her.

19. The text communications between Witness E and Mr Joslyn demonstrate that the relationship was very much an "on off relationship", and emotionally volatile. It is clear that relationship was characterised by frequent arguments and in particular Witness E's distrust of Mr Joslyn. Witness E in evidence told the Panel that Mr Joslyn used sex as a comfort.

20. The Panel accepts Witness E's evidence of the frequent fighting in their relationship both verbal and physical. This is corroborated by text communication between the two of them and there is evidence from other witnesses that the relationship was volatile including physical violence.

21. However in respect of a number of aspects of Witness E's evidence the Panel had concerns regarding the reliability of some of her evidence. It was also clear that the passage of time had affected her memory as she accepted in evidence to the Panel. The Panel was also aware that Witness E was dismissed from the Police Force. The credibility of some of her evidence was also a concern for the Panel.

22. The Panel considered whether she had colluded with Witness D to make up a case to destroy Mr Joslyn's reputation. It also considered whether her evidence was tainted/contaminated by having read the statement Witness D made in 2012, regarding the harassment complaint. She had read this evidence during the course of her relationship with Mr Joslyn. The Panel considered that her evidence was different in nature than the evidence of Witness D and the Panel concluded that the witnesses had not colluded to fabricate a case against Mr Joslyn. For example, Witness D

allegations in the main, concerned evidence that Mr Joslyn was a domineering, demeaning and belittling individual. Whereas the main thrust of Witness E's claim was that he was physically aggressive. There were some similarities, but the Panel concluded that these were not because of fabrication or collusion but that it concerned the behaviour of Mr Joslyn.

23. Sergeant Fernquest give evidence in a professional and open manner and described the level of Witness E's upset when she was told that Mr Joslyn was in a relationship with another woman (who is now Mr Joslyn's wife). She also referred to her seeing bruises on Witness E. She told the Panel that she remains friends with Mr Joslyn's wife and she is her line manager. The Panel saw no reason to doubt her evidence.

24. PC Gunter confirmed that he was friends with Mr Joslyn. He told the Panel that Mr Joslyn liked to have sexual intercourse with lots of women. He said "I knew he was appealing to young female police officers". When PC Gunter was asked about the level of contact he had with Mr Joslyn, he was evasive and had to be pressed by Mr Daw QC as to the extent of that friendship. When asked about his WhatsApp communications with Mr Joslyn, he first said that he deleted his messages and he then checked his phone and accepted that he still had some communications from Mr Joslyn. PC Gunter presented to the Panel as a biased witness who asserted as fact that the allegations were not true. In the Panel's view this was a surprising stance for an officer to take, given that he would not have been present when the conduct that this Panel is considering allegedly took place. The Panel also had doubts as to the reliability of his evidence about a brief conversation he stated he had with Witness E, which even on his own evidence, he did not take what she had said seriously, he had been out drinking and he made no record of it at or close to the time.

25. PC Threader was of limited assistance to the Panel. She described being accused by Witness E in an aggressive manner of having an affair with Mr Joslyn. PC Threader spoke favourably of Mr Joslyn. She went on a date once with him many years ago, to a pub. She also told the Panel that she is friends with Mrs Joslyn.

26. The Panel also considered all the witness statements before it. It noted that many of those statements contain second or third hand hearsay evidence and were

therefore of limited weight. It attached such weight to those statements where it appeared they were relevant to the Charges.

27. The Panel considered the allegations in relation to Witness D and E separately. It was very careful not to just assume that if the allegations of Witness D were made out then the allegation of Witness E must also be true. It did not form the view given the nature of the allegations that “there was no smoke without fire”.

28. Mr Joslyn asserted in his written submissions that; “*There is no evidence to support that Mr Joslyn has behaved anything other than in an admirable fashion to other partners and his current wife at all times.*”. However, there is evidence in the bundle relating to Mr Joslyn’s’ behaviour with previous partners. In particular there are witness statements from witnesses B and C. Those witnesses were not part of the case in relation to the allegations that Witness D and E make, but that evidence which has not been tested in cross examination suggests that Mr Joslyn has behaved in ways “*other than in an admirable fashion to other partners*”. Witness B described him as controlling. Witness C also described him as controlling and would control her movements by locking doors and he used restraints on her by pinning her down.

[REDACTED]

30. Although Mr Joslyn did not attend the hearing he sent through an opening note and further cross examination questions for a number of witnesses. The Panel considered whether it required those witnesses to attend in light of the new submissions advanced by Mr Joslyn and it considered that it did not.

31. Mr Joslyn also submitted that the charges relating to events pre 21 November 2012, should not be considered at this hearing because of the regulations that deal

with Former Police Officers. The Panel had regard to the Home Office Guidance which states: *“Provided the date of the allegation or complaint was made after the 21 November 2012 and the officer was serving on or after 15 December 2017, it does not matter when the alleged conduct is alleged to have occurred.”* Further the Panel accepted the AA’s submission that the allegations concerning Witness D as now considered, came to the attention of the AA as a result of and after the investigation into matters concerning Witness E.

32. Mr Joslyn objected to many of the allegations concerning Witness D as he stated these were for the most part in Witness D’s 2012 statements and those matters had been dealt with before when he was formally issued with a harassment warning on 22 May 2012, regarding his contact with Witness D, by Inspector Wilkinson. On 28 May 2012, in breach of that warning, Mr Joslyn contacted Witness D by email. As a result, he was disciplined at a misconduct meeting for “breach of the Standards of Professional Behaviour, namely Orders and Instructions.” This Panel determined at an earlier hearing that it was appropriate to consider the facts surrounding the relationship between Witness D and Mr Joslyn, including the facts that were part of the conduct that concerned the allegation of Harassment. There has never been any formal finding of the facts relating to Witness D. In this regard the Panel took account of case of R (on the application of R) v Commissioner of Police of the Metropolis [2012] EWHC 1115 (Admin) and para 60 where Eady J. states; *“...that such a notice carries with it an implication that the police have given credence to the underlying allegation. I am not persuaded that this is so, save in the sense that the relevant complaint has not been dismissed by the officers concerned as manifestly unfounded. It remains, however, an allegation and is in no sense a finding”.*

### **33. The Charges**

#### **Witness ‘D’**

- 1. In May 2011, you and Witness ‘D’ were in a relationship with each other. Whilst in the relationship, you subjected Witness ‘D’ to controlling and/or coercive behaviour in that you:**

Whether the behaviour amounted to controlling and or coercive behaviour will be considered at the end of the charges concerning witness D. In considering the charges save for where it is specifically stated the Panel preferred the evidence of Witness D to that of Mr Joslyn.

- (i) In August 2011, instructed Witness 'D' not to answer her mobile telephone, so as to avoid being deployed to assist in policing of the London riots. On her being deployed, you criticised her stating, "What part of don't answer your phone don't you understand?" and accused her of being a liar;**

Witness D gave evidence that Mr Joslyn told her not to answer the mobile phone. She explained the circumstances to the Panel that she was a probationer officer and she was conscientious and felt she should respond if called. The Panel accepted her evidence.  
This Charge is proved.

- (ii) In October 2011, used insulting and derogatory comments about Witness 'D's step-sister, who suffered from brain damage.**

Witness D stated that Mr Joslyn referred to her step- sister as "it". When the step –sister died her cornea's were donated and Witness D stated the he said "it was disgusting, and he wouldn't want a dead person's cornea from a disabled girl".

This charge is proved.

- (iii) On 23<sup>rd</sup> October 2011, required Witness 'D' to return a telephone call from a male colleague, Matthew Bragg. On her returning the call and telling Matthew Bragg that you had required her to do so, you threatened Witness 'D' stating that if she ever humiliated you, you would 'do her legs' or 'end her';**

Witness D referred to this incident in her witness statement. In her statement she states that after she returned the call to Mathew Bragg, Mr Joslyn said to her "why did you say that to Mathew he's gonna thing(sic) I'm some sort of stalker or obsessive. You're trying to embarrass me and humiliate me". Her evidence is supported by the evidence of Mathew Bragg in his witness statement before the Panel. He confirmed he had a call back from Witness D. He recalled the telephone call and he was concerned that he had "stirred the [redacted] there between her and Clarke". He stated that he met her a few days later and she said that "Clarke had told her to tell me that he was not angry or [redacted] off with me".

This Charge is proved.

- (iv) On 24<sup>th</sup> October 2011, deliberately attended the funeral of Witness 'D's step-sister despite Witness 'D' asking you not to do so;**

Witness D in her statement dated 11/1/2015 stated that she "didn't really want him to go" to the funeral. She also stated that she pleaded with him not to go. However Witness D also gives evidence that Mr Joslyn was in her house the morning of the funeral ironing his trousers and he went to the funeral with her in the car. This suggests that there is some evidence that they were attending the funeral together.

The Panel concluded that this charge is not proved.

- (v) On the day of the funeral, called Witness 'D' a [REDACTED] retard" on account of her parking in a puddle;**

The Panel accepted the evidence of Witness D that when she parked the car in a puddle, that he called her "a [REDACTED] retard". These were the words that she used in the statement she made on 1 June 2012. Mr Joslyn denies that he would have used those words. The Panel prefers the evidence of Witness D.

This Charge is proved.

- (vi) In January / February 2012, told Witness 'D' that it was disrespectful for her to wear underwear that you had bought when she was not with you;**

The Panel accepted Witness D's evidence that Mr Joslyn said this. As has been said before the Panel found Witness D to be a very compelling witness.

This Charge is proved.

- (vii) In February 2012, when Witness 'D' said that she had had enough of your criticism and that she was going to leave, grabbed her by the arms and tried to stop her from leaving. On Witness 'D' telling you that she would call the police, you told her that you would say she was hysterical and that no-one would believe her, as she was just a probationer.**

Witness D gave a very clear account to the Panel of what happened on this occasion. She clearly described to the Panel how her arms were held by Mr Joslyn. The Panel had no reason to doubt her evidence.

This charge is proved.

- 2. You further subjected Witness 'D' to such behaviour on various dates in that you:**

- (i) Sought to control Witness 'D' associated with her family and/or friends in that you:**
  - (i) Said that she did not need to see her father more than once per week;**
  - (ii) Stated that you hoped one of her male friends, Gareth Leonard, would die;**
  - (iii) Constantly accused her of not being faithful;**
  - (iv) Constantly queried every telephone call that she received;**

In respect of Charge 2(i) the witness statement of Witness D frequently referred to Mr Joslyn's controlling manner. She described his behaviour as worryingly possessive and manic. The Panel accepted Witness D evidence that Mr Joslyn told her, she did not need to see her father more than once per week and that he stated that he hoped her male friend would die. Witness D also gave evidence that she was frequently accused of being unfaithful. On the basis of this evidence the Panel found (i),(ii)(iii) proved.

The Panel found Charge 2 (iv) not proved as it is worded. It noted that there is evidence to show that he queried telephone calls but not every telephone call Witness D received. This Charge is not proved.

- (ii) Threatened Witness 'D' by stating that if she was cheating on you, you would 'do her over';**
- (iii) Threatened Witness 'D' by implying that something bad would happen to her if she ever humiliated you;**
- (iv) Made numerous contact with Witness 'D' by way of telephone calls, text messages and was abusive to her when she did not reply;**
- (v) Contacted Witness 'D' on point-to-point using the tetra radio when she did not answer her mobile telephone;**
- (vi) Monitored Witness 'D's' Facebook profiles and told her when you considered that her male friends had commented too much, causing Witness 'D' to delete her account;**
- (vii) Grabbed Witness 'D' from behind and said you could choke her;**
- (viii) Applied pressure to Witness 'D's' neck, causing her to panic.**

In respect of (ii)-(viii) above the Panel accepted the oral evidence of Witness D.

Witness D described how she received a text from her sister when she was with Mr Joslyn. He started questioning her about cheating on him and said words to the effect that if she was cheating, he would “do her over”. On numerous occasions she said “when he was accusing me of cheating he used to say “if you ever humiliate me”...but he would never finish the sentence leaving me to imagine the rest.” She also described a day when she left her phone at home and had received numerous text and missed calls from Mr Joslyn. The messages were abusive, questioning where she was and who she was with. She also described how he would often take his work tetra radio home and try to point to point her when he was off duty. She said “If I would not answer my mobile phone during work hours he would ‘Point to Point’ my force radio. It was usually was(sic) easier to answer him and agree to meet him so that I could work in peace and not draw attention to myself. He was clearly monitoring my work which made me feel uneasy. I felt like I was being watched or stalked.”

Witness D also describes how Mr Joslyn would go through her Facebook account and comment.

Finally in Witness D’s statement she states; “Clarke would grab me from behind and say that he could choke me out. He would apply pressure to my neck that would make me panic. I could be in the kitchen standing getting changed and he would do it to me, he would always spoil everything.”

These charges are proved.

**3. This behaviour caused Witness ‘D’ serious alarm and/or distress, which affected her day-to-day activities.**

Witness D in her statement told the Panel the harassment had a huge impact on her life, “not just at the time of the event but in the years which followed”. She described how she was slowly cut off from families and friends, making excuses for not seeing or contacting people. She described her stomach being so tense she struggled to eat. She stated that she “felt like I was being suffocated and was trapped with no escape”. She described being terrified and constantly looking over her shoulder.

This Charge is proved.

**4. On 27<sup>th</sup> February 2012, Witness ‘D’ ended the relationship with you. On her doing this, you engaged in a course of unwanted conduct towards her in that you:**

- (i) Sent cards stating that you loved her;**
- (ii) Made numerous telephone calls and sent numerous text messages to her, including in the middle of the night;**

- (iii) Sent her a text message quoting a biblical passage, “be sure your sins will find you out”;**
- (iv) Sent unwanted flowers;**
- (v) Accused her of being selfish for not keeping in contact with him and telling him that you were ‘safe’;**
- (vi) Said that she owed it to you to meet up with you;**
- (vii) Said that you were not going to let the relationship be ended;**
- (viii) Falsely said that you had been involved in a car crash and admitted to hospital;**
- (ix) Said that your mother had suffered a stroke and that she might have a brain tumour;**
- (x) On 21<sup>st</sup> May 2012, sought to prevent her from undertaking on PSU training.**

In relation to Charge 4(i)-(vii) the Panel had regard to the statement of Witness D where she describes the cards, the calls and the texts she received in addition to unwanted flowers. At the time of sending those flowers Mr Joslyn would have known that they were unwanted. The Panel also had before it the emails, texts and cards sent by Mr Joslyn. The Panel finds these charges proved.

In relation to Charge 4(viii) and (ix) The Panel has also seen these communications and there is no evidence to suggest that they are true. It appears that they were written solely to evoke sympathy.

In relation to Charge 4 (x) the Panel had regard to Witness D’s evidence that after the relationship had ended Witness D attended for PSU training. She said that as soon as she walked through the door of the lecture theatre, Mr Joslyn told her she was not on the list. She said that “he was abusing his position as a trainer for his own ends- by controlling me again”. On the same day 21/5/2012, Witness D reported the matter to Inspector Hocking-Brown who reported the matter to PSD the following day. Charge 4 is proved in its entirety.

- 5. As a consequence of the above, Witness ‘D’ changed her telephone number. As to this, you:**

- (i) Sent Witness 'D' an email to say that she was irrational for changing her number;**
- (ii) Continued to send unwanted emails;**
- (iii) Continued to send unwanted flowers**

The Panel accepts Witness D' evidence of the above matters and it has seen the emails.

Charge 5 is proved in its entirety.

**6. This amounted to fixated and/or obsessive behaviour, a pattern of persistent and unwanted repeated contact or attempted contact with Witness 'D' and/or your stalking of her.**

The evidence before the Panel demonstrates that Mr Joslyn was behaving in an obsessive manner towards Witness D. He listened to her work calls when she was on the police radio. He repeatedly contacted her even when he was formally warned not to. Witness D in her witness statement and in her evidence to the Panel described in chilling detail after the relationship ended how Mr Joslyn had attended outside her property at 8pm wanting to come in. She said she hid in the hall but he texted and called her mobile. She told him he was not coming in. On another occasion as she was at a shop Mr Joslyn's personal car appeared beside her police vehicle. She describes him as "being everywhere".

The Charge is proved.

In conclusion the Panel considered the head of Charge 1 namely whether Mr Joslyn subjected Witness 'D' to controlling and/or coercive behaviour when he was in a relationship with her. The Panel concluded that he did. It is clear from the facts set out in the charges above that Mr Joslyn was seeking to dominate Witness D in the relationship. He also sought to isolate her from her family and friends. She frequently described his manner as controlling. He would put her down, pass comment on her clothing and compare her to others. She described how on holiday he screamed at her in front of people not to touch his things. She described as she says; "...little things, like he was cooking in the kitchen he would get a knife and wave it in a slashing movement in my face." At the same time as describing this incident she stated that he was not aggressive or hands on. Finally, she also described to the Panel an occasion when he had put a gun(possibly an air rifle) in the bed and another occasion he was looking at her through the gunsight saying he was just checking to see if it was clean. She said and the Panel accepted her evidence that he knew she did not like knives or guns. Mr Joslyn seeks to undermine her evidence by stating that she attended a firearms training in 2014/2015. The Panel considered that this did not undermine her evidence.

The Panel finds that Mr Joslyn subjected Witness D to behaviour that can be described as controlling and or coercive behaviour.

## Witness 'E'

### **7. Between June 2012 and November 2014, you and Witness 'E' were in a relationship with each other.**

In Witness E's interview she states that she and Mr Joslyn entered into a relationship in September 2012. There is some evidence that prior to this date there was Facebook communication. However, the precise start date is unclear. The Panel therefore accepts that there was a relationship from approximately September 2012 until November 2014. To this extent the Panel find this charge proved.

### **8. Whilst in the relationship, you subjected Witness 'E' to controlling, coercive and/or physically abusive behaviour in that you:**

- (i) On 12<sup>th</sup> July 2012, pinned Witness 'E' on a bed, grabbed her face, and pushed her up the bed;**
- (ii) On an unknown date after having had an argument about food, pinned Witness 'E' against a wall whilst holding a knife;**
- (iii) On 28<sup>th</sup> October 2013, harassed Witness 'E' by contacting her seven times between 16.01 and 16.11.**

(i) Witness E gave evidence that there were incidents "where we'd been arguing and um I tried to get out the one day I think it must have been about three months into our relationship we'd been arguing about something and I packed all my stuff up and I wanted to go and I had had a drink but I wasn't drunk I'd probably had two cans something like that two or three cans as I, as I normally would when I went down there and um we ended up arguing and I said I'm going and I packed all my stuff and he pushed me onto the bed and he pinned me down by my arms and um he wouldn't let go of my arms and I was shouting at him get off and I and I shouted at him see [Witness D] was right you treat women like [redacted] and I said go on hit me and he didn't but he wouldn't let go and I was saying let go but he wouldn't and I was scared so I spat in his face and as I spat in his face his one arm loosened and grabbed me around the face like this and pushed me up the bed so I was further up the bed and as his weight came off my legs and up forward towards me as he put his hand towards me I just pushed him, I just kicked out at him and he went he let go of my arms and uh because I'd managed to get him off me he grabbed hold of me and he threw me um across the bed and I hit my back on his on the bottom of his bed and then I ended up on the floor and I was shocked ...."

This incident is not dated on 12 July 2012 and whilst the Panel accepts that such an event occurred it could not find the evidence to support the charge that it occurred on 12 July 2012. Mr Joslyn has always maintained in respect of this charge that he was

not in a relationship with Witness E in July 2012. Mr Joslyn in interview referred to an incident which is similar to this which happened in December 2012.

The Panel concluded that it was not its role at this late stage after the Panel has retired to seek to amend or vary the charge as drafted.

The AA invited the Panel to consider that this charge should be found proved rather than not proved on the basis that the Panel accepted that the incident took place but it was the date that was incorrect. Mr Daw QC referred the Panel to a number of criminal authorities.

The Panel also had regard to the evidence of Sergeant Fernquest who recalls 'E' describing this incident in November 2014 – she states: “The first incident she described as being at Clarke's home when they had an argument and she went to leave but he did not want her to leave and physically 'pinned' her down on the bed. He would not release her and so she spat in his face and he then put his hand over her face causing the bruise to her nose. She said she managed to throw him off and then she walked into town.”

Mr Joslyn also accepts that the allegation was that the incident took place in December 2012 and in the document bundle before the Panel he recounts the allegation and states that he has no recollection of the same.

The Panel considered the case of R v Dossi which held that a date specified in an indictment is not a material matter unless it is an essential part of the alleged offence; the defendant may be convicted although the jury finds that the offence was committed on a date other than that specified in the indictment.

On the basis of this caselaw the Panel determined that this charge is proved in so far as the Panel accepts that Mr Joslyn pinned Witness 'E' on a bed, grabbed her face, and pushed her up the bed.

This Charge is proved.

(ii) Witness E described an occasion when she was at Mr Joslyn's home he was cooking a meal. She went to have a bath She said “I'll go and have a bath then is that alright and he said “yes food will be about 40 minutes”...and I went up and I had a bath and food was done in 20 and he was shouting, “you've got no [REDACTED] respect for me I've cooked you this lovely meal and it's going cold” ....he came storming up the stairs and he had a little knife in his hand, and he pinned me up against the wall in his house and I laughed ...I finally just laughed almost just like, you don't scare me anymore.” She goes on to say he was cooking downstairs he never threatened me with it.

Mr Joslyn denies that such an event occurred.

The Panel had an opportunity to question Witness E regarding this incident. The Panel accepts Witness E's evidence in this regard. She has not sought to embellish the incident. Witness E also describes Mr Joslyn's sudden change in mood which is also similar to how Witness D described him.

This charge is proved.

(iii) The Panel had regard to the document in the bundle which reviews Mr Joslyn's Tetra usage on this day and he contacts Witness E on 7 occasions. On 28/10/13 between 16:01 and 16:11. Mr Joslyn makes 7 calls to Witness E, with the longest being 142 seconds. At 16:15 Witness E calls Mr Joslyn and a 181 second conversation takes place. In the absence of further evidence the Panel could not conclude whether in the circumstances that this amounted to harassment on 28 October 2013.

This Charge is not proved.

**9. You further made on social media to Witness 'E' insulting and disreputable comments about persons with protected characteristics pursuant to Equality Act 2010 as follows:**

- (i) On 6<sup>th</sup> September 2012, you referred to "people with Ghetto faces" together with the words "mong", "spaz" and "rem";**
- (ii) On 7<sup>th</sup> September 2012, you made negative references to a person being a "dwarf" and looking "a bit down";**
- (iii) On 8<sup>th</sup> September 2012, you made a negative reference to a woman's being in a wheelchair;**
- (iv) On 9<sup>th</sup> September 2012, you referred to "pikkaninies" and a "little black child servant";**
- (v) On 20<sup>th</sup> September 2012, you used the term "spastic";**
- (vi) On 21<sup>st</sup> September 2012, you made a reference to starving children in Africa, in the context of killing dogs;**
- (vii) On 23<sup>rd</sup> September 2012, you made a derogatory comment that being Jewish meant to be able to hold a grudge.**

The Panel were provided with extracts of numerous social media messages between Witness E and Mr Joslyn in 2012 when he was a Police Officer at the relevant time. Mr Joslyn submitted that these communications were in private and should not be seen as affecting his ability to be a Police Officer. In summary he submits that he has a right to a private life. Mr Joslyn does not deny that he wrote the texts but he submits that the messages are taken out of context or that they were not intended to offend. The Panel specifically considered his explanations regarding the following comments:

***On 6<sup>th</sup> September 2012, you referred to “people with Ghetto faces” together with the words “mong”, “spaz” and “rem”;***

In the Regulation 22 response Mr Joslyn states; “ whilst unpleasant in this context and in the arena of a private message the word does not represent a breach of the police code of conduct.” He goes on to state that in using these words he is using “them in something of an informative and educational fashion”.

***On 7<sup>th</sup> September 2012, you made negative references to a person being a “dwarf” and looking “a bit downs”;***

In the Regulation 22 response Mr Joslyn states;” whilst unpleasant to read this should not be considered as anything other than an inappropriate private joke. It is no worse and is actually tame in comparison to some joke made by comedians as Frankie Boyle and Ricky Gervais”. Mr Joslyn also provided the Panel with a Frankie Boyle script and a copy of the Inbetweeners script

***On 8<sup>th</sup> September 2012, you made a negative reference to a woman’s being in a wheelchair***

In the Regulation 22 response Mr Joslyn suggests that the woman they are referring to is a character in a TV series. He states “ PC Joslyn does refer to Izzy as a spastic This is now considered a politically incorrect term and not one that he would use in public”. He states that it was an acceptable term when he was growing up. He states “(t)he word spastic is derived from the Greek ‘spastikos’....The conversation is low – brow and unpleasant. It is an example where PC Joslyn is showing off, trying to shock (Witness E) for a reaction”.

***On 9<sup>th</sup> September 2012, you referred to “pikkaninies” and a “little black child servant”;***

In the Regulation 22 response Mr Joslyn explains that Witness E had not heard the term before. He states “that as he understood it, the term referred to a little black child servant. He then adds to the ‘joke’ adding ‘expect I suppose they wouldn’t have a night off’. He also states; “Pickinnini is considered an offensive noun. PC Joslyn was unaware of this... “He goes on to say that he is not a racist and it is difficult to “get a feel for the context of the entire conversation”.

***On 23<sup>rd</sup> September 2012, you made a derogatory comment that being Jewish meant to be able to hold a grudge.***

Mr Joslyn denied that this is offensive.

In respect of 9(vi) The Panel concluded that there was not a connection between the comment children starving in Africa and a separate discussion to the reference to killing dogs. This Charge is not proved.

The Panel accepts that Mr Joslyn has a right to a private life but the public would not expect a Police Officer to communicate in such a derogatory fashion.

The Panel having considered the text of each communication, finds Charges 9(i)(ii)(iii)(iv)(v) and (vii) amount to insulting and disreputable comments about persons with protected characteristics and are proved. Charge 9(vi) is not proved.

**10. On 12<sup>th</sup> July 2014 you attended the retirement party of Gareth Lintern. You returned from the party the following morning. On your return, Witness ‘E’ had consumed alcohol and was drunk. You and Witness ‘E’ then started to engage in sexual activity. As to this, you penetrated Witness ‘E’ anus with your penis when:**

- (i) You did not ascertain whether Witness ‘E’ consented;**
- (ii) Witness ‘E’ did not consent;**
- (iii) You did not stop doing so when she said that you were hurting her;**
- (iv) You stopped only when Witness ‘E’ physically pushed you off her.**

It is not in dispute that Mr Joslyn and Witness E attend the retirement party on 12 July 2014. At the Party Mr Joslyn was seen by Witness E speaking to other women and in particular he was overly friendly with one woman. Witness E was not happy about this.

There is contradictory evidence before the Panel about a number of events on that night. Witness E said she did not have anything to drink until she got to the retirement party Whereas PC Evans described how, when he and his wife arrived to collect Mr Joslyn and Witness E, he stated that Witness E was drinking from a can of larger/beer.

The AA put the case that Witness E was either too drunk to give consent and or that Mr Joslyn did not stop when Witness E said “you are hurting me”. The Panel had regard to the evidence of PC Bafico. She states that she dropped Mr Joslyn and Witness E off, after the party on the main road near Witness E’s house. She says “they were either hand in hand or arm in arm and not staggering or falling over”. The Panel was satisfied on the basis of the evidence that Witness E was not so drunk that she could not consent to sexual intercourse.

Witness E believed that the anal sex occurred on the night of the retirement party. She said that she called Mr Joslyn a rapist and he became angry and left the house. She said that she ran after him to try to stop him from leaving. When Witness E was interviewed she recalled Mr Joslyn returning the following day and she described him coming into the house and going up to her bedroom with her. She did not refer to having sex with him on that occasion the day after the rape incident. However when she was shown text messages between herself and Mr Joslyn which confirm they had sex on the 13 July 2014 the day after the rape allegation, she could not recall this happening. The Panel would have expected Witness E to recall if she had had sexual intercourse with Mr Joslyn the day after she said that she had been raped. This evidence undermined Witness E’s credibility.

The Panel considered that the text communications regarding the anal sex act and the sexual intercourse the day after. The AA rely on this document to demonstrate that Mr Joslyn did “not stop” when told to do so by Witness E. Mr Joslyn when he was interviewed regarding the rape allegation sought to rely on these texts to demonstrate that he did not anally rape Witness E, but it was a consensual act. The order of the texts is out of sequence, but in any event the Panel concluded that the nature of the text messages was regarding the degree of penetration rather than whether the act was consensual. It also noted that the texts from Witness E are signed off with and “x” and she thanks Mr Joslyn for coming to her house and having sex and there is also a conversation regarding a football match.

Mr Joslyn believed that the anal sex occurred on the day after the party when he returned to Witness E's house and not on the night of the party.

In questioning from the Panel Witness E said that she might have consented to anal sex but she cannot now remember due to the passage of time. In addition to these inconsistencies the Panel also had concerns about the time of reporting of the rape allegation which was made in November 2014 after she had discovered that Mr Joslyn was seeing another officer.

Given the degree of inconsistency in the evidence, the Panel has concluded that Charge 10(i)-(iv) is not proved.

**11. In respect of all the above, you engaged in a continuously abusive course of conduct towards women.**

Given the Panel's findings above the Panel concluded that Mr Joslyn engaged in a continuously abusive course of conduct towards women. In respect of Witness D, Mr Joslyn was verbally abusive and used his physical presence to dominate her. In respect of Witness E the Panel accepts her evidence regarding the relationship that it had its "ups and downs I tried to finish with him a couple of times pushed me and shoved me around quite often we were arguing he was saying, he would say horrible things."

The Panel was satisfied on the basis of all the evidence before it that Mr Joslyn engaged in a continuously abusive course of conduct towards women. This Charge is proved.

Standards of Professional Behaviour

**12. By reason of the matters set out above:**

- (i) You are guilty of gross misconduct in breach of the Standards of Professional Behaviour of Authority, Respect and Courtesy and Discreditable Conduct;**
- (ii) Your conduct, singularly or cumulatively, amounts to gross misconduct.**

34. The Panel next went on to consider whether the charges found proved amount to a breach of the 'Authority, Respect and Courtesy' and/or 'Discreditable Conduct' paragraphs of the Standards of Professional Behaviour." In considering these standards the Panel had regard to the Code of Ethics.

35. In considering whether the conduct amounts to misconduct or gross misconduct the Panel notes that the Regulations define gross misconduct “as a breach of the Standards of Professional Behaviour so serious that dismissal would be justified”.

#### **“Authority, Respect and Courtesy**

Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

Police officers do not abuse their powers or authority and respect the rights of all individuals.

The Panel had regard to paragraph 2.1 of the Code of Ethics:

- Avoid any behaviour that might impair your effectiveness or 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.

#### **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.

36. The Panel accepts that not all breaches of the Standards will necessarily amount to misconduct or gross misconduct. The Panel concluded that Mr. Joslyn behaved in a way towards Witness D and Witness E that falls significantly short of the standards expected of a police officer (which he was at the time). He used his physical presence and his position as a trainer to dominate the women he went out with.

37. The Panel considered that the offensive and derogatory messaging amounts to misconduct in itself. However, that conduct cannot be seen in isolation. The messages in the Panel's view provide an insight into the character of Mr. Joslyn. He also made

derogatory comments about witness D's disabled stepsister. Witness B refers to an incident when they were at the cinema and a person with down syndrome came on the screen and Mr. Clarke started laughing. Witness B stated that she had never been so embarrassed and she "couldn't believe he was a police officer". This suggests to the Panel that Mr. Joslyn has a deep seated attitudinal problem and not as he suggests, a particular sense of humour which might not be to everyone's liking.

[REDACTED]

39. The Panel considers that the conduct is of such a serious breach of the Standards of Professional behaviour, that it amounts to gross misconduct. If Mr Joslyn was still a police officer, his ongoing service would have undermined public confidence in the police service.

CONFIDENTIAL

The Panel heard submissions on outcome.

### Outcome

The Panel next assessed the appropriate outcome. Mr Daw QC on behalf of the AA, drew the Panel's attention to Former PC Joslyn's antecedents and referred the Panel to the relevant legislation.

The Panel had regard to the 'Guidance on outcomes in police misconduct proceedings', but it bore in mind that it is a matter for the Panel exercising its own judgment as to the appropriate outcome. The Panel also bore in mind that any decision it makes must be proportionate balancing the public interest with Former PC Joslyn's own interests.

The purpose of disciplinary hearings is not to be punitive, although it may have a punitive outcome. It is part of the public interest not to permanently deprive the public of an otherwise competent police officer. In considering the appropriate and proportionate sanction the Panel had regard to the public interest which includes protection of the public, maintaining public confidence in the policing profession and declaring and upholding proper standards of conduct and behaviour.

The Panel considered carefully the following:

- a) Former PC Joslyn's record of service and antecedents;
- b) The positive testimonials he provided.

The Panel accept that there is evidence that Mr Joslyn is highly thought of among his colleagues. The testimonials were of limited assistance to the Panel. However, there are a number of aggravating features in this case. He was physically abusive to women, he was domineering and controlling. Former PC Joslyn demonstrated very limited if any insight into his conduct and behaviour. The Panel was particularly concerned by Mr Joslyn's deep seated attitudinal issues in seeking to justify and excuse the derogatory and deeply offensive language used by him in his text communications.

The Panel had at the forefront of its considerations the clear public interest in protecting the public, declaring and upholding proper standards of conduct and behaviour by Police Officers and maintaining confidence in the Police Service. Furthermore, in assessing the appropriate outcome the Panel applied the principle of proportionality, weighing the interests of the public against those of Mr Joslyn.

The Panel noted the observations of Holroyde J in Williams, para. 66;

*"In my judgment, the importance of maintaining public confidence in, and respect for the police 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 only question on sanction is whether the Panel would have dismissed Mr Joslyn had he been a police officer: Police (Conduct) Regulations 2012 ('PCR') sch 3 para 1:

"disciplinary action" means a finding that the officer concerned would have been dismissed if he had not ceased to be a member of a police force or a special constable.

The Panel considered that the findings in this case were so serious that the public would be appalled that a police officer behaved in the way that Mr Joslyn has.

The Panel came to the conclusion that if Mr Joslyn was a police officer, he would have been dismissed. Such a decision is necessary to maintain public confidence in the Police Service and to send a clear message to the profession in declaring and upholding proper standards of conduct and behaviour.

That concludes this case.