

In re PC 1879 PAUL FAULKNER

REASONS

SUMMARY OF THE ISSUES AND ARGUMENTS

1. PC 1879 Paul Faulkner is a Cleveland police officer who is accused of breaching the standards of professional behaviour required in relation to conduct; and honesty and integrity.
2. The allegations of misconduct are set out in the notices of referral to the misconduct proceedings. As per the Appropriate Authority's ("AA") opening note and as is admitted, in the autumn of 2019 PC Faulkner formed a sexual relationship with PC A, whilst she was the subject of an investigation by the Independent Office for Police Complaints ("IOPC"). When PC Faulkner first met PC A in September 2019, another officer was acting as PC A's Federation Representative and PC Faulkner was acting as a Federation observer, knowing that it was likely that he would eventually act as PC A's Federation Representative. PC Faulkner and PC A got on well when they first met. He contacted her via Facebook later that day and provided her with his personal telephone number. PC Faulkner and PC A formed a relationship over the coming weeks and months. Their intimate relationship was fully fledged by the time PC Faulkner became PC A's Federation representative in November 2019.
3. The AA submits that there was no legitimate policing purpose for the initial Facebook contact and thereafter PC Faulkner's contact via personal mobile phone. In her oral and written evidence, PC A describes her life in September 2019, when she was served with notice of the IOPC's investigation into an allegation of gross misconduct. She says that she was personally and professionally vulnerable and needed an independent Federation Representative she could rely on and trust, for advice and guidance around protecting her career and steering her through the complaint. She now feels that PC Faulkner exploited her situation, allowing her to develop a working and personal dependence upon him that resulted in a sexual relationship. That reliance became stronger in November 2019 when the IOPC notified PC A that they maintained their allegation of gross misconduct, leading to PC A's emotional breakdown and approximately six months of stress-related sickness and absence from work, during which she and PC Faulkner continued their

relationship. For the sake of fairness and balance, all should know that in October 2020 the IOPC chose not to pursue the complaint against PC A.

4. The AA therefore alleges in allegation 1 that by pursuing and/or allowing that relationship to continue, PC Faulkner's behaviour amounted to discreditable conduct.
5. The AA alleges that the initial, out-of-hours approach via Facebook was improper because it lacked a legitimate policing purpose.
6. Thereafter, the relationship undermined the impartial, independent relationship between the Police Federation through its observer, and later Representative, PC Faulkner, and their member, PC A. This too, they say, was professionally, not morally, discreditable. A Federation member who requires assistance is entitled to expect that assistance to be provided free of any other fear, favour, motive or consideration.
7. The relationship also created the risk of bias and the perception of bias. Aside from acting for PC A, PC Faulkner acted for two other Police Federation members who were also being investigated for allegations arising out of the same matter. Had PC A received a more favourable disposal than another member, and the fact of her relationship with PC Faulkner become more widely known, others may have thought that she received more favourable treatment because she had received preferential assistance and representation. So, say the AA, even in the absence of actual harm caused, the risk of harm in both bias by PC Faulkner and the perception of bias by others created a situation that was professionally, not morally, discreditable.
8. The personal relationship also created the risk that PC Faulkner would have to lie to his professional colleagues to protect it. By reason of the matters set out above, the Federation Branch Chair and Secretary were entitled to asked PC Faulkner whether he had formed a relationship with PC A and when they did so, in May 2020, PC Faulkner owed them a truthful answer. He lied to them when he denied the relationship existed, and he lied again when his supervisor asked him substantially the same question. Pursuing or allowing a personal relationship to exist that created a risk of professional dishonesty was professionally, not morally, discreditable.

9. Even if, as per the Investigating Officer's report, the relationship did not breach Cleveland Police's personal relationship policy, PC Faulkner received training from the Police Federation in October 2018 and February 2019. On those courses, he was told that he remained bound by the police Code of Conduct and the police Code of Ethics. He was advised that it was inappropriate to represent colleagues with whom he was having a relationship that went beyond a professional one. His training and any modicum of common sense would tell him that he should not have engaged in a sexual relationship with a person he was acting for, and this did not need to be expressed in a written policy.
10. Even if others chose not to take this matter further at an earlier stage, those are now only matters of historical fact that should have no bearing on the panel, whose task is now to assess independently whether the conduct alleged amounted to a breach of a professional standard. In all the circumstances, the pursuit of the relationship amounts not only to a breach of the professional standard required in relation to conduct but also to gross misconduct.
11. In his response to allegation 1, PC Faulkner denies that his Facebook contact lacked a legitimate policing purpose and was his attempt to fulfil his function as a Federation Representative. Medical evidence presented in private session demonstrates that PC Faulkner was still significantly affected by the consequences of both physical and mental injuries arising from an incident that took place whilst he was on duty in December 2017. Without directly seeking to compare like-for-like, PC Faulkner says that when the relationship started, he too was at a low ebb, seeking solace and support at a difficult time.
12. PC Faulkner submits that he knew he was likely to inherit the task of acting for PC A as a Federation representative before he met her and that he did not contrive to exploit any vulnerability, nor did he perceive PC A as vulnerable. Until November 2019, PC A continued to work in a complex, arduous and difficult area of policing, returning to work in June 2020 in a more senior role. PC Faulkner accepted that PC A was going through a difficult time when their relationship started, and per his response to these allegations, further concedes that, with the benefit of hindsight, once a romantic relationship had developed, he ought not to have continued to act as PC A's Federation Representative. That said, PC Faulkner denied exploiting or seeking to exploit PC A, characterising their relationship as arising in the context of difficulties they each had and sought to share in a relationship that intensified in October 2019, deepening

thereafter to the point that, as both conceded, for a time, they loved one another.

13. PC Faulkner therefore submits that the relationship was better characterised as equal rather than exploitative. Both were willing partners. They chose to be discreet, to avoid harm to their families, whilst they planned their future together. Their extra-marital affair was incidental to, rather than caused by, PC Faulkner acting as PC A's Federation Representative.
14. PC Faulkner therefore submits that, looked at in terms of professional rather than moral standards, pursuing or allowing the relationship does not amount to discreditable conduct. It was essentially a private rather than a professional matter. It does not therefore discredit the police force or undermine confidence in it, particularly in circumstances where the relationship did not breach Cleveland Police Force's personal relationship policy.
15. Other than as set out above, PC Faulkner accepted the facts alleged against him. If, which he denied, the relationship contravened the relevant professional standard, he submitted that this breach can only amount to misconduct in all the circumstances.
16. The AA alleges in allegation 2 that in May and June 2020, PC Faulkner lied to Police Federation Representatives and to his supervisor. These lies were, they say, further to PC Faulkner's request to PC A to lie about the existence of the relationship, should she be asked about it. Even if, as PC Faulkner said, PC A agreed with him to lie about their relationship if asked, that agreement only arose because PC Faulkner knew his wife was about to bring matters to the wider attention of the police in or around May 2020. So, they say, the agreement is still based upon his request. Lying is lying. It is always serious and particularly so when the people lied to are acting in a Federation and/or supervisory role. The public trust is gravely damaged by anything other than applying an exacting standard. Officers cannot pick and choose those to whom they are honest. The AA therefore submits that to fail to categorise these lies as anything other than gross misconduct sets a dangerous precedent. So therefore, PC Faulkner's lies amount to gross misconduct.
17. PC Faulkner accepts that he lied twice, on the one hand to Police Federation Representatives, and later to his supervisor. He denies asking PC A to lie for him, charactering this more as an agreement between them to protect their

families arising from the fact that they were engaged in an extra-marital affair. Such an agreement was part of their relationship and mutual understanding from an early stage. Therefore, it is artificial to see the discussion, however it happened, as amounting to PC Faulkner's specific request at a specific time.

18. Nonetheless, PC Faulkner accepts that his lies to his professional colleagues amount to a breach of the standard requiring honesty and integrity, and therefore amount to misconduct. He submits however that when seen in context, his lies were not operational and were told to avoid distress to his and PC A's families and not for any other reason. So therefore, in the context of this case, this breach of the standard requiring honesty and integrity amounts to misconduct rather than gross misconduct.

THE ROLE OF THE PANEL: REGULATORY FUNCTION, HOME OFFICE GUIDANCE AND THE APPLICABLE STANDARDS OF PROFESSIONAL BEHAVIOUR.

19. The general function and purpose of this panel is to manage this Misconduct Hearing in accordance with Regulation 41 of the Police (Conduct) Regulations 2020.

(15) The person or persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts –

...

(b) in the case of a misconduct hearing, to misconduct, gross misconduct or neither.

(16) The person or persons conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless –

(a) they are satisfied on the balance of probabilities that this is the case, or

(b) the officer admits it is the case.

20. Further guidance on that objective is set out in the Home Office Guidance: Statutory Guidance on Professional Standards, Performance and Integrity in Policing (Published 5th February 2020). We have applied it. In particular: -

1.4 The procedures...are designed to accord with the principles of natural justice and the basic principles of fairness. The process and procedures...should be administered

accordingly and applied fairly and consistently to everyone. The guidance...is designed to further the aims of being fair to the individual who is subject to the process, as well as all parties involved. It is intended to assist with arriving at a correct assessment of the matter in question and providing public and policing confidence in the system.

2.9 Where...Standards of Professional Behaviour are being applied...they shall be applied in a reasonable, transparent, objective, proportionate and fair manner...The misconduct procedures are designed to reflect best practice in other fields of employment while recognising that police officers have a special status as holders of the Office of Constable.

2.11 Where the misconduct procedure is being applied, it is important to identify the actual behaviour that is alleged to have fallen below the standard expected of a police officer, with clear particulars describing that behaviour. Due regard shall be paid to the nature and circumstances of a police officer's conduct, including whether their actions or omissions were reasonable at the time of the conduct under scrutiny.

9.6 The purpose of a formal misconduct meeting or hearing is to:

a) give the officer a fair opportunity to make their case having considered the investigation report including supporting documents and to put forward any factors the officer wishes to be considered in mitigation (in addition to the submission which must be sent in advance to the person(s) conducting or chairing the meeting/hearing for their consideration),

b) decide if the conduct of the officer breached the Standards of Professional Behaviour in a way that is so serious as to justify disciplinary action (misconduct) or in such a way that is so serious as to justify dismissal (gross misconduct). This determination is based on the balance of probabilities and having regard to all of the evidence and circumstances. Those making the judgment on the level of seriousness of the breach of the standards can be partly guided by the Code of Ethics,

c) consider what the outcome should be if misconduct is proven or admitted. Consideration will be given to any live written warnings or final written warnings (and any previous disciplinary outcomes that have not expired) and any early admission of the conduct by the police officer. Those making the decision on outcome should consider the College of Policing's Guidance on Outcomes in Police Misconduct Proceedings.

9.10 *In deciding matters of fact, the persons conducting the misconduct meeting or hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the persons conducting the meeting or hearing are satisfied by the evidence that it is more likely than not that the conduct occurred. The balance of probabilities is a single unvarying standard (i.e. there is no sliding scale). The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officer do not require a different standard of proof, merely appropriately careful consideration by the panel before it is satisfied of the matter which has to be established. The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when deciding whether, on the balance of probabilities, the conduct occurred.*

9.11 *In making a decision whether the alleged conduct of a police officer is proven or not, the persons conducting or chairing will need to exercise reasonable judgement and give appropriate careful consideration to the evidence.*

11.107 *It will be for the chair of the hearing to determine the course of the hearing in accordance with the principles of natural justice and fairness.*

11.115 *The persons conducting misconduct hearings will consider the facts of the case and will decide the facts (on the balance of probabilities) and whether the officer's conduct amounted to misconduct, gross misconduct or neither. Any decision must be based on a majority of the panel (the chair having the casting vote if necessary). The panel must not indicate whether any determination was taken unanimously or by a majority.*

11.132 *Where more than one allegation of misconduct against the officer concerned has been found proven, it is for the panel to decide whether, taken together, the misconduct may amount to gross misconduct. In cases where the conduct amounts to misconduct, the outcomes of reduction in rank and dismissal are available if the incidents are not closely factually connected...The outcomes for misconduct or gross misconduct will be subject to the same considerations that would be made for a case where there is one allegation proven of misconduct or gross misconduct. It will be for the person conducting the misconduct proceedings to consider whether it is appropriate in the circumstances to consider matters as a whole and return a combined finding or whether each allegation should be considered separately.*

21. In relation to the Standards of Professional Behaviour applicable in this case, the Home Office Guidance provides guidance which we have applied. On misconduct action for bringing discredit on the police force: -

2.15 Discredit can be brought on the police by an act itself or because public confidence in the police is undermined, or is perceived to be undermined. In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off-duty...In all cases it must be clearly articulated how the conduct, conviction or caution discredits the police.

2.17 Police officers have some restrictions on their private life. Some of these restrictions are set out in the Police Regulations 2003. These restrictions have to be balanced against the right to privacy in common law and right to a private life, as set out in Article 8 of the Human Rights Act 1998. Therefore, in considering whether a police officer has acted in a way which falls below these standards while off-duty, due regard should be given to that balance and any action should be proportionate, taking into account all of the circumstances.

22. In relation to the requirements for conduct, the Home Office Guidance reads as follows.

2.26...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..."

23. The Code of Ethics on conduct reads as follows.

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

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

9.3 It is recognised that the test of whether behaviour has brought discredit on policing is not solely about media coverage and public perception but has regard to all the circumstances.

Examples of meeting this standard are when you:

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

...

- *avoid any activities that may compromise your or any colleague's position in policing or compromise a police operation.*

24. In relation to the requirement for honesty and integrity, the Home Office Guidance reads as follows.

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

25. The Code of Ethics on honesty and integrity reads as follows.

1.1 According to this standard you must act with honesty and integrity at all times.

In abiding by this standard you gain and maintain the trust of the public, your leaders, your colleagues and your team. You are dependable and a role model.

Examples of meeting this standard are when you:

- *are sincere and truthful*
- *show courage in doing what you believe to be right*
- *ensure your decisions are not influenced by improper considerations of personal gain*
- *do not knowingly make false, misleading or inaccurate oral or written statements in any professional context*
- *neither solicit nor accept the offer of any gift, gratuity or hospitality that could compromise your impartiality.*

DIRECTIONS OF LAW

26. The burden and standard of proof. The balance of probabilities applies, and the burden of proof lies upon the Appropriate Authority to prove the allegations which form the subject of these proceedings. The balance of probabilities is a single unvarying standard.

27. General approach to the evidence.

- a. We consider all written and documentary evidence presented together with the oral evidence called on behalf of both parties. We limit ourselves to that evidence. We take account of the knowledge and experience of the panel's members.
- b. We make factual findings which are based on an interpretation of events that has previously been disclosed to PC Faulkner and in respect of which he has been provided with adequate opportunity to investigate, call evidence and make submissions.
- c. We base our factual findings on inferences drawn from documentary evidence and known or probable facts, using oral evidence to subject the documentary records to critical scrutiny and to consider each witness's personality and motivation. We assess the evidence in the round.
- d. We do not assess any witness's credibility exclusively on their demeanour when giving evidence. Each witness's veracity is tested by reference to the objective facts proved independently of their testimony, in particular by reference to the documents in the case.
- e. We make a rounded assessment of each witness's reliability, rather than approaching their reliability in respect of each allegation in isolation from the others.
- f. Where, as here, the Appropriate Authority brings more than one allegation in relation to the same officer, we consider the facts of each allegation individually and separately, also considering the evidence as a whole.

28. Good character. We have read all the character evidence provided on behalf of PC Faulkner. We have also read, for balance, those materials described to us within a document headed "Other Disciplinary Matters". Given that PC Faulkner has no previous finding against him in relation to either honesty and integrity; or discreditable conduct, we have allowed PC Faulkner the benefit of a good character direction and directed ourselves to note the effect that this has on the issues of credibility and propensity.

FINDINGS OF FACT AND REASONS.

29. At paragraph 2 of the “Alleged Facts”, which form the context for allegations 1 and 2, it is alleged: “That as a result of your role as a Federation Representative, that (sic) you initiated contact with “Officer A”, when there was no legitimate policing purpose for that contact.” Otherwise, the facts of allegation 1 are accepted.
30. The finding invited bears some significance. In the absence of a legitimate policing purpose for the initial out-of-hours Facebook contact, one might infer that PC Faulkner contacted PC A only because he was attracted to her and therefore seeking to exploit her.
31. We accept the evidence of PC Faulkner, to an extent supported by the evidence of PC Richie Murray, the Secretary of the Cleveland branch of the Police Federation, that there was talk of PC Faulkner becoming PC A’s Federation Representative for some time before he met PC A; and that the allocation of PC Faulkner to PC A as a Federation Representative was more a matter for PC Murray than it was for PC Faulkner. Within this context, whilst PC Faulkner contacted PC A by Facebook when he acted only as a Federation observer, we accept that he believed it was likely he would become PC A’s Federation Representative, and so he had a legitimate policing purpose to contact PC A and offer his assistance. Given PC Faulkner’s own description of the first time he met PC A, where he said that he was so taken with her conversation that he almost accidentally followed her into the female toilets, we have no doubt that he felt some attraction to her. Even so, he had a legitimate policing purpose to contact PC A and having heard his evidence on this point, we accept that in making contact by Facebook, his predominant purpose was professional rather than to satisfy his attraction. The precise means by which PC Faulkner saw PC A’s profile on Facebook need not be decided. That profile was publicly available. He chose to contact her via that profile, at that stage to assist PC A. From the additional statements provided to the panel, this was like other instances when PC Faulkner had acted for other Federation members and when PC Faulkner provided his personal mobile phone number. As is clear from that evidence, the use of personal mobile phones was usual practice.
32. We therefore find that there was a legitimate policing purpose for the Facebook contact and reject the contrary premise set out within the “Alleged Facts”.

33. At paragraph 1 (c) of allegation 2, is it alleged that: "Further or alternatively, you asked PC A to lie about the existence of your relationship, should she be asked about it." Otherwise, the facts of allegation 2 are accepted.
34. To determine this fact, the panel must assess the credibility of both PC A and PC Faulkner, which necessarily goes further than determining that single disputed issue.
35. We accept that when PC A first met PC Faulkner, she had several personal and professional difficulties that left her potentially if not actually vulnerable to the approaches of anyone who would seek to exploit that position. PC A now considers herself to have been a vulnerable person who was exploited throughout the relationship.
36. Those same personal and professional difficulties also left PC A more receptive to the attention shown by PC Faulkner, than would possibly have been the case at other times in her life and career.
37. We have been provided with documents that were created during the relationship. We have two letters sent by PC A to PC Faulkner which were put to him when he was interviewed under caution. We have also been provided with a tranche of printed WhatsApp messages which cover the period 07:00:34 on 22.9.20 to 23: 51:55 on 23.6.21, discounting the very last message on the last of 264 pages. Whilst this material does not cover the start of the relationship, it allows us a fair view into the later dynamics of the relationship where we find that both PC A and PC Faulkner can fairly be described as emotional equals, engaging in the to and fro of an intense, mutual and consensual relationship that eventually ended with PC Faulkner returning to his marriage, even though he had gone as far as obtaining a decree nisi.
38. Using the method of scrutiny and analysis set out above at paragraph 27 and bearing in mind the direction on PC Faulkner's character as to credibility, on the question of the general nature of the relationship, we prefer PC Faulkner's evidence and find that the relationship was conducted substantially in the manner he suggests. The documents suggest that both PC A and PC Faulkner were able to correspond very much as equals. When they met in September 2019, both PC A and PC Faulkner each bore the brunt of their individual life's

experience but that did not prevent each from falling in love with the other and engaging rapidly in a mutual and intense relationship.

39. Turning then to the disputed fact in allegation 2, namely whether PC Faulkner “asked” PC A to lie about the existence of their relationship, we prefer the explanation given by PC Faulkner to that suggested by PC A. There is no doubt that at some point, both PC Faulkner and PC A discussed denying their relationship to others if they were asked about it, and both agreed that they would do so. Such conversations are no doubt common to secret, extra-marital relationships when both share a workplace. They probably arise sooner rather than later in those relationships, particularly where, as here, there is some evidence that PC A and PC Faulkner may have been seen early on at a party, kissing each other goodbye. It is artificial to single out a specific point as relevant to an agreement that was likely to have been understood between the protagonists before its details were spelled out when specific circumstances arose. For these reasons, the panel does not accept particular 1 (c) as it is pleaded within the context of this case.

BREACHES OF THE STANDARDS OF PROFESSIONAL BEHAVIOUR

40. In the context of that understanding of the relationship between the principal witnesses, we assess the findings in allegation 1 to decide whether they amount to discreditable conduct. In short, they do. We agree strongly with the assessment advanced by the AA. When he became a Federation Representative, PC Faulkner was told that it was inappropriate to represent colleagues with whom he had a relationship that went beyond the professional. To do otherwise as he did with PC A may have caused no damage to her case with the IOPC but it left her believing the worst of him after the event. PC A was entitled to truly independent advice and assistance. However well PC Faulkner thought he was acting on her behalf, she did not get what she was entitled to, even if ultimately no harm was done, given particularly that towards the end of 2019, PC A was suggesting that certain boundaries could be set in the relationship. In accepting and continuing to represent PC A after he became involved with her in October 2019 PC Faulkner caused at the very least, the risk of the perception of bias when the true facts were known.

41. Perhaps most importantly, in continuing to act for PC A whilst he was involved with her, PC Faulkner knew that he risked having to lie to his fellow officers and supervisors, if eventually they ever asked him a direct question about the relationship, to which they were entitled to an answer. PC Faulkner created the risk to his own honesty and integrity which later came to pass.
42. For these reasons, we have no hesitation in finding that even within the context that PC Faulkner relates, the facts admitted within allegation 1 amount to a breach of the professional standard relating to discreditable conduct. Even the facts he admits undermine public confidence to some extent. These matters may have been, for the most part, related to private lives but they impinged on public service and came within touching distance of an IOPC investigation. They had the potential to compromise the position in policing of PC A, PC Faulkner and those to whom he answered. A finding of breach is therefore proportionate in these circumstances.
43. On PC Faulkner's behalf, Mr Rawlinson submits that the panel should not find a breach because those charged with considering this matter in June 2020 chose not to investigate it further. To that extent, he referred to paragraphs 2.12, 4.53, 4.54 and the fourth bullet point in the text box on page 27 of the Home Office Guidance. We need not set those paragraphs out in long form. In short, however well Mr Rawlinson put that point, Ms Checa-Dover is correct: the assessment of the facts and severity is a matter for the panel.
44. In relation to allegation 2, PC Faulkner admits that lying to the Federation Branch Chair and Secretary, and his supervising officer amounts to a breach of the professional standard relating to honesty and integrity. That is clearly correct but here, it is important to consider the nature of the dishonesty. It was not operational. PC Faulkner lied to save his and PC A's families rather than intending to create personal or professional harm to either PC A or any other officer. The lies told may have been considered in advance but only because they arose from PC Faulkner conducting the relationship that gives rise to allegation 1. The breach admitted in allegation 2 would not have happened but for the breach found in allegation 1. Whilst the lies admitted in allegation 2 form a breach of a separate standard, that breach is very closely bound to the breach found in allegation 1.

SEVERITY ASSESSMENT AND CONCLUSIONS ON THE BASIS OF THESE FINDINGS

45. Given that PC Faulkner accepts that his lies admitted in allegation 2 amount to misconduct, it therefore falls to the panel to decide whether its findings on allegation 1 elevate his admitted misconduct to gross misconduct.

46. In argument, we have been referred to the decision of McGowan J in **White [2017] EWHC 923 (Admin)** where at paragraph 15 McGowan J observed that:

“It is obvious that deliberate dishonesty on the part of a police officer would, almost invariably, amount to gross misconduct. The standard of honesty expected by the public of its police service is high and must be jealously guarded by those responsible for its maintenance.”

47. We have also been referred to the decision in **Rukin [2017] EWHC 1286 (Admin)**. Lee Rukin was a Cleveland Police Temporary Chief Inspector, who was found to have persistently lied about the circumstances in which he received severe injuries to his face. He told his colleagues, including the then Deputy Chief Constable, that he had cycled into the back of a parked car. He had in fact been brutally assaulted by the husband of a female police sergeant with whom he was conducting an intimate affair. Beyond repeating and embellishing his lie, Rukin also produced dishonest exhibits to seek to prove it. Ultimately, the lie was discovered, and Mr Rukin was referred to misconduct proceedings. Before a tribunal such as this, he was found guilty of gross misconduct. On appeal, the Police Appeals Tribunal (“PAT”) downgraded that finding to misconduct. On appeal from the PAT to the High Court, the Chief Constable of Cleveland sought and failed to have the finding of gross misconduct reinstated, leaving legally open, as Mr Rawlinson submits, the sliver of gap that McGowan J refers to when using the words *“almost invariably”*.

48. PC Faulkner and PC A each had their own problems when they met, started to communicate, and fell for each other. Both engaged equally in an extra-marital relationship for many months. In no way do we condone or romanticise PC Faulkner’s poor judgement in conducting a relationship with a police officer he was acting for in an official capacity, but nonetheless, it is the professional wrong, not some moral wrong, that these proceedings recognise. PC Faulkner

put himself in a position where he felt he had to lie to Federation Representatives and his supervisor for personal rather than professional reasons. The fact of telling lies, not once but twice based upon at the very least, a settled recognition that lies might be required to hide an uncomfortable truth, undoubtedly makes his position worse. There is however a substantial and lesser qualitative difference between the lies PC Faulkner told and those usually amounting to gross misconduct. Findings of both discreditable and dishonest conduct will inevitably lead to some loss of public confidence in policing, but the panel finds that loss to be not as great as would have been the case if PC Faulkner had lied for operational rather than personal reasons. There is also a risk of “double counting”. To an extent, we have already factored the recognition of the need to lie into the severity assessment on allegation 1. In this case, the facts of allegations 1 and 2 are so closely related that it seems disproportionate to allow the overall assessment to take this case to the next level of severity.

49. We accede to Mr Rawlinson’s request to determine the severity of the breaches individually and cumulatively. We find that PC Paul Faulkner engaged in discreditable conduct when he conducted a relationship with a fellow police officer whilst also acting as her Federation Representative. That amounted to misconduct. He breached the standard required in relation to honesty and integrity when he lied about the existence of that relationship to his Police Federation superiors and his supervising officer. That too, on the facts of this case, amounted to misconduct. Taken together, these breaches amounted to misconduct and not gross misconduct.

Ann O’Hanlon

Tom Mitchell

Helen Barker

Independent member

Legally Qualified Chair

Superintendent