

THE POLICE MISCONDUCT PANELS
IN THE MATTER OF THE POLICE ACT 1996
AND IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

Hampshire Police & Fire Headquarters
Leigh Road, Eastleigh, Hampshire, SO50 9SJ

Date: 14.10.24

Between:

THE CHIEF CONSTABLE OF HAMPSHIRE AND THE ISLE OF WIGHT
Appropriate Authority
- and -

FORMER POLICE CONSTABLE JOHN APTER
Relevant Officer

WRITTEN REASONS

I. Introduction

A. *Procedural History*

1. This is the final hearing of police misconduct proceedings brought by the Chief Constable of Hampshire and the Isle of Wight (“the AA”) concerning Former Police Constable John Apter (“Mr. Apter”).
2. These proceedings are being heard under the ‘old’ procedure before the Police (Conduct) Regulations 2020 were amended earlier this year.
3. The proceedings commenced by way of a Regulation 30 notice dated 15.03.24; that is set out – in full – at **Annexe One** below.
4. Ms. Cecily White, counsel, appeared for the AA; Ms. Ailsa Williamson, counsel, appeared for Mr. Apter.
5. This final hearing was heard over nine days from 24.09.24 to 04.10.24. The Panel heard the AA’s case from 24 to 27.09.24. The Panel then heard submissions on the AA’s hearsay application and Mr. Apter’s submission that there was ‘no case to answer’ (“NCTA”) on 27.09.24. The Panel retired to consider both of those arguments on 27.09.24 and returned, after the weekend on 30.09.24, with a document entitled, ‘Summary of Reasons as to Hearsay Application and Submission of No Case to Answer’.
6. The Panel found that there was a case to answer and granted the hearsay application.
7. That document has now been absorbed into this final set of Written Reasons.
8. On 02.10.24, the Panel retired to consider the facts; the Panel returned on 04.10.24 and circulated another document entitled, ‘Summary of Reasons as to Fact-Finding’.
9. That document has now also been absorbed into this final set of Written Reasons.
10. The Panel heard submissions as to sanction on 04.10.24.

11. The Panel was able to indicate its decision with Written Reasons to follow.
12. That reasoning is now also contained in this set of Written Reasons.

B. Summary of the Allegations

13. Mr. Apter was the Chair of the Police Federation of England and Wales (hereafter, “the Federation”) from 2018 to 2021.
14. In short, this case concerns three allegations which we will label **Charge One**, **Charge Two**, and **Charge Three**.
15. In summary, **Charge One** is an allegation that, in early 2019, Mr. Apter said words to the effect, “*Maybe you’ll get a bum now*” or “*you’ve got an arse now you’re pregnant*”, to Charlotte Styles who was an employee of the Federation.
16. In summary, **Charge Two** is an allegation that, on 27.01.20, when preparing for a Roads Policing Event, Mr. Apter said “*I wouldn’t mind looking after her*” or “*I’d like to comfort her in my hotel room*” about Lissie Harper, widow of the late PC Andrew Harper.
17. In summary, **Charge Three** is an allegation that Mr. Apter sexually touched Female A’s, a Leicestershire police officer’s, bottom in an unwanted manner and asked Female A, “*is that okay?*” whilst he did it; this is said to have happened at the table of a restaurant in London on 08.12.21.
18. Each of these charges, if proved, are said – by the AA - to breach the Standards of Professional Behaviour in various respects.
19. **Charges One** and **Three** came to the attention of the (then) Chief Constable of the AA on 13.12.21 (page 200); they were referred to the IOPC on 17.12.21 (page 17).
20. As an aside, the facts forming **Charge One** and **Two** came to light because an employee of the Federation, Jamie Simpson, raised them as part of an exit interview with a human resources professional at the Federation, Tricia Finch. The exit interview took place on 17.11.21.
21. Unlike **Charge One** and **Charge Three**, **Charge Two** came to the attention of (then) Chief Constable of the AA later (see paragraph 27(g), below) – that then came to the attention of the IOPC on 09.03.22 (page 17).
22. Mr. Apter was suspended from duty on 20.12.21 (sub-section II.B.3, below).
23. Mr. Apter retired on 22.04.22 (record of police service, looseleaf).

II. Factual Background

24. We now summarise the evidence we have read and heard in this matter:

A. Terminology

25. Where we refer to ‘undisputed evidence’, below, what we mean by that is evidence that is either agreed or where it was not considered to be in the interests of justice to require that person to attend to give evidence.

B. Undisputed Evidence

1. **Police Constable Alex Duncan**

26. PC Duncan gave a statement dated 07.01.22; it commences at page 196.
27. There, Mr. Duncan:
- a. Explains that he was the Secretary of the Federation at the material times in 2021-2022;
 - b. Explains that, at a meeting on 29.11.21 where he was aware of the contents of Mr. Simpson's exit interview (paragraph 57(j), below), he tasked Mr. Phil Day – HR Director of the Federation – with conducting a “*quick scoping exercise*” in respect of the allegations;
 - c. Explains that, on 06.12.21, Mr. Day returned (page 198): *‘The outcome was that the information provided by Jamie had been confirmed by the witnesses Phil had spoken to’*;
 - d. Explains that he commenced the process of suspending Mr. Apter from the Federation; that would involve him appointing an external investigator. PC Duncan proposed to wait for confirmation of the latter's appointment before suspending Mr. Apter (page 198) – the [December 2021] Annual Bravery Awards were imminent at that stage (page 199);
 - e. Explains that he was then off-work with Covid-19 – he became aware of the allegations founding **Charge Three** via a phone call on 09.12.21;
 - f. Explains that he phoned the (then) Chief Constable of the AA - the Chief Constable responsible for Mr. Apter - to inform her of the allegations;
 - g. Accepts he neglected to tell the (then) Chief Constable of the matters now forming the factual foundations of **Charge Two** (page 200) - he informed her of those matters at a later date.

2. **Memorandum and Email of Phil Day**

28. There is a memorandum of Mr. Day dated 05.12.21; that is at pages 192-195. In short, the memorandum:
- a. Sets out there was a meeting with Mr. Duncan on 02.12.21 (page 192);
 - b. Explains Mr. Duncan's apparent view, as Mr. Day recorded it, that there was “*...no clear-cut process... for triggering [an investigation] where a member of staff wants to raise allegations about the behaviour of a Police Federation representative*” (page 192). There then follows a discussion of the Federation's Rules and the two main options open to the Federation in respect of how to investigate this matter;
 - c. Explains Mr. Duncan's apparent view, as Mr. Day recorded it, that “*...the nature of the allegations as they stand currently do not warrant Mr. Apter's suspension*” (page 194). Mr. Duncan or Mr. Day did not believe that it would be appropriate to restrict Mr. Apter's activities (page 194);
 - d. Sets out Mr. Duncan's and Mr. Day's views that (page 194),
“*...[in view of the] potential impact of these allegations given Mr. Apter's seniority and the recent issues concerning allegations of sexism and misogyny in the Police Service... this case presents significant reputational risks for [the Federation]. [/] These risks*

mean that every effort should be made to keep the investigation process as confidential as possible... ”

29. There is an email dated 04.03.22 setting out answers by Mr. Day to questions posed by the IOPC. That commences at page 202. In short, that document sets out:
- a. There was a meeting between Mr. Day and PC Duncan on 23.11.21- PC Duncan asked Mr. Day to conduct a ‘scoping exercise’. That scoping exercise involved Mr. Day speaking to all of the people mentioned by Mr. Simpson – all, bar one, agreed to provide a statement (page 203);
 - b. There was a further meeting on 02.12.21 between Mr. Day and PC Duncan where it was agreed an investigation would commence. Mr. Day prepared the memorandum (paragraph 28, above), and sent this to PC Duncan on 05.12.21 (pages 203-204);
 - c. The Federation investigation went no further because of the allegations forming **Charge Three** (page 204).

3. Deputy Chief Constable Benjamin Snuggs

30. Deputy Chief Constable (“DCC”) Snuggs gives a statement dated 08.06.22; it commences at page 214.
31. There, DCC Snuggs:
- a. Explains he became aware of allegations against Mr. Apter from the professional standards department (“PSD”) of the AA;
 - b. On 20.12.21, around 08:04, DCC Snuggs phoned Mr. Apter and invited him to attend at Hampshire Police Strategic Headquarters in Eastleigh in person (page 214);
 - c. DCC Snuggs confirmed to Mr. Apter it was a “*professional standards related matter*” (page 214);
 - d. Explains around twelve minutes later that Mr. Apter phoned him back and asked him whether he was due to be suspended;
 - e. DCC Snuggs, who had known Mr. Apter for around 25 years, confirmed to Mr. Apter that he was to be suspended (page 214);
 - f. Explains Mr. Apter attended later that morning (pages 214-215).

4. Police Superintendent Debra Masson

32. Superintendent Masson gives a statement dated 09.06.22; it commences at page 216.
33. There, Superintendent Masson sets out that Mr. Apter arrived at Eastleigh Strategic Headquarters at approximately 11:40. The papers were served upon him at around 12:12. During the process, Superintendent Masson explains that Mr. Apter’s phone was seized by the IOPC’s officer who was present (page 216).

5. Report of Investigator Vivienne O’Neill

34. IOPC Investigator O’Neill provides a report dated 02.03.22; it commences at page 217.
35. There, Ms. O’Neill:

- a. Explains that she and Investigator Smith attended at the Federation's headquarters in Leatherhead, Surrey, on 01.03.22, with a view to analysing emails received to/sent from Mr. Apter's Federation email account;
- b. Explains that she and Ms. Smith were invited to a room where the manager of the Federation's legal department and the Federation's data protection officer were present;
- c. Explains that the arrangement was that the data protection officer would search the email account and send the product of those searches to the IOPC afterwards – a number of appropriate search terms were proposed;
- d. Explains that confidentiality agreements were discussed (seemingly at some length) in relation to the resultant data (pages 222-223);
- e. Sets out that the relevant emails were then sent to the IOPC.

C. Charge One - Early 2019 (Charlotte Styles)

1. **Undisputed Evidence**

a) Report of Investigator Katie Matthews

36. This is set out more fully below at sub-section II.E.1.a.
37. In summary, Ms. Matthews:
 - a. Explains that, having reviewed Mr. Apter's phone, nothing of relevance was found in various messages between Ms. Styles and Mr. Apter – those messages were all “work-related” (page 227);
 - b. Explains that nothing of relevance was found in messages between Mr. Simpson and Mr. Apter – they were similarly all work-related (page 227).

b) Emails

38. There is an email from IOPC Investigator van Brienan to Ms. Styles on 11.01.22 indicating that Investigator van Brienan had attempted to call her. Investigator van Brienan explained the call was in relation to an allegation that Ms. Styles had apparently made during an exit interview (page 641).
39. A call took place between them on 18.01.22 (Supplementary Bundle page seven) - there is an email where Investigator van Brienan asks Female A to complete a witness statement with her (page 639).
40. Ms. Styles expresses that she feels “...a little uncomfortable providing a witness statement at this stage without knowing a bit more information and without any legal advice” (page 638). *Per* Ms. Styles (pages 638-639),
 “As you are aware I did not make any complaints regarding the behaviours you are investigating whilst at [the Federation] or since I have left, however my name was mentioned in a colleague[‘s] exit interview regarding a comment that had been made to me in 2019. I also have not directly witnessed any specific incidents and can only share my general experience regarding the behaviours and culture. [/] As a citizen and civilian police employee I would of course want to support any ongoing criminal investigation in any way I can but before I do so I just want a little more information about how my statement

will be used, whether I would then be a direct complainant, whether it will be anonymous and some legal advice to ensure I'm not implicating myself in any[way]".

41. There is then an email from Investigator van Brienan explaining matters (page 638); that produces a further response in these terms from Ms. Styles (page 637):
"... I would... just want to check legally if I'm okay to proceed because of the agreement I have in place [with the Federation] since I left. I'm pretty c[e]rtain the confidentiality agreement doesn't include providing a witness account in any criminal investigations..."
42. There are then further emails from Investigator van Brienan. There is a reply, dated 16.02.22, in these terms (page 635):
"My only worry is around the legal implications of my agreement. I can't see why it would be an issue but I would want to check it out legally first. To get legal advice would cost me and to be honest I want to move on from my time there and not have the hassle of seeking legal advice. I am also not completely sure on who made the misogynist comment to me back in 2019 as discussed"
43. There are then further emails from Investigator van Brienan. There is a reply, dated 17.03.22, in these terms (page 633):
"I don't feel comfortable personally seeking out for more legal advice again as this took a lot of time previously and I'm not a complainant in this situation. [/] If you are able to send over some questions, I will take a look and see how I can help but I do not wish to do a video interview. As mentioned, I don't have a specific complaint regarding [Mr. Apter], I can only provide you with background regarding the culture"
44. Various questions are sent to Ms. Styles by IOPC Investigator Smith in a template witness statement on 18.03.22 (page 645); that receives the response, on 06.04.22 (page 644):
"I don't feel comfortable completing this as I don't have a specific complaint against [Mr.] Apter and could only comment about the culture as a whole. I also did not directly witness any specific incident. [/] Because of this and because of the terms in which I left the [Federation] I don't feel comfortable with providing a witness statement on this basis"

c) Phone call notes from 18.01.22

45. There are phone call notes from 18.01.22 of Investigator van Brienan in relation to a discussion with Ms. Styles; these start at Supplementary Bundle page two.
46. There, Ms. Styles is reported to have:
 - a. Said, when asked if being made the subject of any inappropriate comments at an exit interview, that the comment happened in 2019 when she was pregnant *"...and was along the lines of you'll get an arse now"* (page seven);
 - b. Said it happened when Mr. Apter and Mr. Donald were in *"a room"* (page seven) – *"...she wasn't sure who said it but thought it was most likely [Mr. Donald] as he usually instigated this type of banter"*;
 - c. *"... 'banter' along those lines was pervasive and she saw [Mr. Donald] and [Mr. Apter] as creepy/cringy uncle types"* (page seven);
 - d. Asked how the IOPC became aware of the allegation – Investigator van Brienan explained that the Federation had reported it and that it related to

“possible criminal allegations and... misconduct allegations...” (page seven);

- e. Said that (Supplementary Bundle, page eight), *“...inappropriate comments were pervasive from when she first joined led by [Mr. Donald] and she said she felt [Mr. Apter] was more of a ‘people pleaser’ and that was why he joined in”*.

d) Phone call notes from 26.01.22

- 47. There are phone call notes from 26.01.22 of Investigator van Brienan in relation to a discussion with Mr. Simpson; these start at Supplementary Bundle page eight.
- 48. There, Mr. Simpson is reported to have:
 - a. Expressed concern that his allegations had caused Mr. Apter to be suspended – he *“...only expected [Mr. Apter] to receive training/go on a course”* (page eight);
 - b. Described (page eight),
“...a culture of inappropriate comments as being common place – the ones mentioned in his exit interview were specific ones he recalled and that more happened. He named [Mr. Apter] and [Mr. Donald] and said it looks like he only spoke about [Mr. Apter] in the exit interview but he also spoke about the wider culture too”;
 - c. Said that he wanted to be anonymous if he was a witness (page nine); Investigator van Brienan explained that was not possible.

2. Witnesses

a) Charlotte Styles

(1) Written Evidence

- 49. Ms. Styles gives a statement dated 16.02.24; it commences at page 706.
- 50. There, Ms. Styles:
 - a. Explains she worked with the Federation from 2018 to 2021 (page 706);
 - b. Sets out she had previously been contacted by the IOPC in 2022 regarding their investigation into Mr. Apter (pages 706-707); *per Ms. Styles,*
“I did not want to do a recorded interview because I felt I did not have anything valuable to add. I felt that the IOPC were too persistent as it just felt too much for me and did not feel morally right . They were talking about criminal matters and court and I did not want to get involved in that. I had also signed a [‘]settle[‘] agreement which meant that I was bound not to say anything about the culture within the [Federation]. However, I felt I made that clear to the IOPC but I felt they were too persistent and wanted me to get legal advice which I did not feel was proportionate and as I was not making any complaint I thought [‘]why should I have to pay out lots of money to get such advice[‘]. Therefore, I did not provide any evidential account but am happy to today as I am not being told to say anything that I know I cannot legally say”.

- c. Sets out that in 2019, whilst she was pregnant with her daughter, Mr. Apter and Mr. Donald were in Mr. Apter's office – Ms. Styles was in there telling them about something happening in the media. *Per Ms. Styles (page 707), "We all just ended up chatting and one of them said 'you've actually got an arse now you're pregnant' or words to that effect. I cannot say with any certainty who made the comment. It was said and we just carried on talking. I kind of took it with a pinch of salt and was not offended by it and I had a banter type relationship with both of them – it was just how it was. As I had [a] close working relationship with both [Mr. Apter] and [Mr. Donald] I did not take this wrongly however I don't think this is the right thing to say and it's not acceptable";*
- d. Explains that she then told Mr. Simpson not long after. Ms. Styles said she was *"...quite flattered by it as I never had much of a bum"* (page 707). She gave Mr. Simpson permission to refer to the incident (page 707);
- e. Sets out that (page 707), *"...I am not making a complaint regarding the comment. I never raised it as an issue before and don't now. It is only because I happened to mention it to [Mr. Simpson] that this has come out into the open, otherwise I would never have said or done anything";*
- f. Explains (page 707), *"...[Mr. Apter] was a caring person... he was very supportive of me... [Mr. Apter][,] out of everyone[,] deserved this the least – he is a kind[-]hearted person and a caring individual, whereas [Mr. Donald] is a bit more aggressive in nature"*

(2) Oral Evidence

- 51. Ms. Styles gave evidence on 24.09.24 via video link.
- 52. In examination in chief (which commenced at 12:03), she simply adopted her written statement.
- 53. In cross-examination (which commenced at 12:04), Ms. Styles:
 - a. Explained that in a phone call on 18.01.22 [from Investigator van Brienan], she was asked about comments made in an exit interview. She clarified that it was not in relation to her own exit interview – she didn't have one; *per Ms. Styles*, it was *"someone else's interview"*;
 - b. Confirmed that she was told by the person on the other end of the phone that the comment allegedly made by Mr. Apter was, *"you've got an arse now you're pregnant"*;
 - c. Confirmed that she was told by the person on the other end of the phone that the comment had allegedly been made when both Mr. Apter and Mr. Donald were in the room with Ms. Styles;
 - d. Had a passage of the telephone note put to her (first part of paragraph 46, above). She confirmed that to be true. She was asked whether she confirmed her belief that she thought the comment was made by Mr. Donald. *Per Ms. Styles*, *"[I am] 99.9% certain it was not [Mr. Apter]. But it was five years ago. [It was] not something that bothered me. I had a good relationship with [Mr. Apter]. It is the kind of thing that [Mr. Donald] might say"*.

- e. Had various emails put to her from the IOPC in February and March 2022. It was put to her that she had said in 2022 she did not feel comfortable providing a witness statement. *Per Ms. Styles, "I did not have any specific complaint against [Mr. Apter...] – [I felt] really pressured and chased by them – [I felt] really uncomfortable"*;
- f. Said, she felt there was "...a witch-hunt against Mr. Apter which I did not feel comfortable about";
- g. Said that the IOPC's officers really wanted her to talk to them "...even when I had nothing to add – [they] wanted to get stuff out of me that wasn't correct. [I] didn't feel comfortable with their persistence";
- h. Said that she was not at a "...good time in my life at the time";
- i. Confirmed she was not asked by the IOPC to give a statement in respect of Mr. Donald's behaviour;
- j. Said, in respect of any putative allegations against Mr. Donald, that she would not wish to pursue those allegations in any event. *Per Ms. Styles, "...it wasn't [i.e. anything to do with Mr. Donald] anything that I took personal[ly]..."*;
- k. Explained that the remark alleged to have been made by Mr. Apter was made in either February or March 2019;
- l. Was asked whether others were present. *Per Ms. Styles, "Metin [Enver] might have been there too. [There were] not a lot of people in the room. [I think] it was just [Mr. Apter] and [Mr. Donald] – it was a long time ago [and it] did not stick in my mind as a very significant meeting"*.
- m. Explained that she did not believe she had any contact in relation to this matter in the year of 2023 – her statement was dated 2024. Then, she explained, the call was from the AA's PSD; *per Ms. Styles, "It felt really rushed to be honest"*. *Per Ms. Styles, "...[there was this]real urgency to get a statement from me within twelve hours"*; she explained, at that stage, she worked in a capacity connected with policing so she was busy;
- n. Said that DC Phillipson-Masters said she would drive down to meet her whilst she was at lunch;
- o. Said that DC Phillipson-Masters "*wrote the statement for me after having a conversation with me*"; she explains, in the event, that was drafted after a phone conversation between them;
- p. Was asked about why she did not take up the IOPC's invitation to give an interview with them in 2022. She explained, "*...it just felt too much for me. [it did not] feel morally right*";
- q. Was asked why she did not feel it morally right. Her answer was, "*...because I really respect [Mr. Apter] and I didn't want him to see me as being part of this because I really enjoyed my time working with him. [That] would be tainted by this and I did not want that*";
- r. Was asked what was enjoyable about working with him. She replied, "*He was genuinely a really nice guy – he actually cared... He actually cared about police officers – you don't always get the feeling from everyone – he wanted to do what was best. He loved the media and always wanted to be fighting for officers' rights in the media...*";
- s. Explained that her memory of what she was 99.9% Mr. Donald said was, "*Oh, you've actually got a bum now you're pregnant*";

- t. Said she was “...pretty skinny [- the remark] would have been made in a jokey way – [I would have said] something like I was really bloated so [the remark] came out. It did not strike me as anything to be offended by”;
 - u. Had it put to her that she told Mr. Simpson that she was quite ‘flattered’ by the remark (paragraph 50(d), above). *Per* Ms. Styles, “*Me and Jamie had quite a friendly relationship and I would invite those conversations with Jamie*”; she clarified no-one else was with them when the remark was discussed between them;
 - v. Was asked whether she had told her line manager at the time, Martin Buhagiar; *per* Ms. Styles, “*not that I remember*”. She was asked if she said it to Mr. Buhagiar on “*three or four occasions*”; *per* Ms. Styles, “*I don’t think that’s right – no. I don’t know why I would have mentioned it – in what context?*”;
 - w. Was asked about the comment in her statement that Mr. Apter deserves this the least; she was asked who she was comparing when she made that statement. Ms. Styles said Mr. Donald;
 - x. Was asked about the effect that these lengthy proceedings have had on Mr. Apter – *per* Ms. Styles, “*I can only imagine*”.
54. In re-examination (time not recorded), Ms. Styles:
- a. Confirmed she had a close relationship with Mr. Simpson;
 - b. Confirmed that she had allowed Mr. Simpson to include the incident in his exit interview;
 - c. Stated she did not “*think*” she told anyone else other than Mr. Simpson;
 - d. Was taken to the part of the handwritten notes referring to Mr. Apter and Mr. Donald as “*creepy/cringey uncle types*” (paragraph 46(c), above). *Per* Ms. Styles, she, “*May have used the words but not words like that*”;
 - e. Was taken to the part of the handwritten notes referring to Mr. Apter as a ‘people pleaser’ that that was the reason why he said what he did. *Per* Ms. Styles, she “*could not remember*” whether she said that to Ms. van Brienan.
55. The Panel asked her a single question (time not recorded). Ms. Styles confirmed that, after her time at the Federation when she was approached to give a statement, she was not in an operational role in policing but a civilian role in policing. She is now no longer involved in the world of policing.

b) Tricia Finch

(1) Written Evidence

56. Ms. Tricia Finch was the Human Resources (“HR”) Business Partner within the Federation. Ms. Finch gave a witness statement on 29.04.22; it begins at page 205.
57. There, Ms. Finch:
- a. Said, upon her retirement in 2022, she will have had 30 years experience as a HR professional (page 205);
 - b. Said she conducted an exit interview with Mr. Simpson, the former Senior Digital Communications Officer at the Federation, on 17.11.21 (page 205);
 - c. Explained the practice of the Federation was to ask departing employees to undertake a written or oral exit interview;

- d. Explains the purpose of an exit interview was to provide a mechanism for the organisation to learn “*common themes and trends*” as to why people left (page 206);
- e. Explains that Mr. Simpson handed in his ‘notice’ on 26.10.21 – he emailed that to Mr. Buhagiar - Mr. Simpson’s manager (page 206) - as well as two others, including Ms. Styles (page 206) that day;
- f. Explains that she believed she spoke to Mr. Simpson on 26.10.21 (page 206) and sent him the written exit interview template - Ms. Finch observed that she was “*very surprised*” that Mr. Simpson was leaving (page 206);
- g. Explains Mr. Simpson initially did the written interview (which is at pages 186-187); that document, dated 03.11.21, states (page 186):

“[Question:] What did you like least about your job and why?”

[Answer:] The last [18 months–two years] may be the worst I have worked for an organisation. [/] Another reason is the blatant hypocrisy amongst the principal officers. On [the] one hand they preach to members about sexism and misogyny, yet some of the thing I have overheard the same people say about women associated with the organisation, even the widow of an officer, is sickening. In the words of our National Chair: ‘If people like me don’t call this out then I will be failing my colleagues’.”;

- h. Explains that the above was emailed to her on 16.11.21 (page 207);
- i. Explains that the above caused her to hold an oral interview (page 205);
- j. Explains that, during that oral interview on 17.11.21, Mr. Simpson raised matters of concern to her (page 206);
- k. Produces her handwritten notes – these are at pages 188-190;
- l. Explains that she typed up her notes and had Mr. Simpson agree them as accurate (via an email on 22.11.21, page 211) – these are at page 191;
- m. Produces her typed notes – the version in the bundle is the partially-redacted one from PC Duncan; the typed notes record Mr. Simpson as saying (page 191):

“There were several examples of [sexist/misogynistic comments made by senior officers who then spoke out against misogyny]... [/][the second example of which was:] Jamie [said that] when Charlotte told [Mr. Apter] she was pregnant, [Mr. Apter] said ‘Maybe you’ll get a bum now’. Jamie said that he would need to tell Charlotte that he had told me about this and was happy to do that”

[As an aside, the first example is that which now forms **Charge Two**; the evidence for that is recounted at paragraph 97, below];

- n. Produces her typed notes; they go on to provide (page 191),
“Jamie stated that he would be surprised if other people did not have more examples [of sexist behaviour]. He said that he had informed Martin Buhagiar that he would be revealing this information and Martin agreed it was the right thing to do. [/] I asked Jamie why he did not raise these things up at the time. He replied that it was very awkward. He stated that he does not think that [...Mr.] Apter is malicious, but does not appreciate the impact of his words on those around him. He said it was difficult to call out the behaviour of the Chair, especially as a more junior colleague”.

- o. Explains that, after Mr. Simpson gave his first example, Ms. Finch asked for further examples. *Per Ms. Finch,*
“...he recalled an incident which his colleague Charlotte Styles told him about. At the time of Jamie’s exit interview[,] Charlotte’s job role at the Police Federation was Internal Communications Manager, this role focuses on communications between the National Board and Police Federation membership, which meant Charlotte worked quite closely with [Mr.] Apter. Charlotte is a nice person and I chatted with her quite a bit in the office; but I don’t recall her ever speaking to me about [Mr.] Apter. Charlotte has since left the Police Federation and she chose not to do an exit interview, although I am aware that her reason for ending her employment was that she was unhappy with her line manager.[/] During his exit interview Jamie said that Charlotte had told him about an incident which occurred when Charlotte had informed [Mr.] Apter that she was pregnant. From Jamie’s telling of it I assumed Charlotte had met with [Mr. Apter] in the office with the purpose of informing him of her plans around maternity leave as the two worked quite closely together. Jamie said that when Charlotte told [Mr. Apter] she was pregnant[,] he replied saying ‘maybe you’ll get a bum now’. Although Jamie did not say if anyone else was present during this conversation, I got the impression that Charlotte and [Mr. Apter] were alone, since I doubt that [Mr. Apter] would have made such a comment when other people might have overheard it” (page 208);
- p. Sets out,
“I got the sense that because Jamie and Charlotte were good friends that they may have been chatting and Charlotte had brought the comment up as an ‘eye-roll’ type incident. Jamie did not mention if Charlotte had responded to [Mr. Apter], but I recall him telling me he would have to let Charlotte know he had told me about this comment and he thought she would be fine with him telling me about the comment. I don’t know if Charlotte disclosed this comment to others in the office, but it was not reported to HR. This is because I would have known about the comment prior to speaking with Jamie if it had been reported” (pages 208-209);
- q. Explains (page 210),
“I asked Jamie if he challenged [Mr. Apter] when he made these comments and Jamie said he didn’t. Jamie explained that he didn’t challenge [Mr. Apter] because he was concerned about the impact that challenging Mr. Apter] may have on his career, as [Mr. Apter] was one of the most senior people in the Police Federation and he was a junior employee”;
- r. Explains that Mr. Simpson was not angry about the comment but that, in terms, the comment demonstrated hypocrisy on Mr. Apter’s part and “backed up” the public’s perception of the police as sexist (page 210);
- s. Explains that Mr. Simpson’s view that such comments were “part of the culture with senior staff [at] the Police Federation” (page 210);
- t. Explains that, other than getting “animated” when stating – in terms – that he would not want his girlfriend referred to in those terms, Mr. Simpson was “remarkably calm throughout the exit interview” (page 210);

- u. Set out that Mr. Simpson said, “...that he didn’t think [Mr. Apter] was malicious and... didn’t think [Mr. Apter] was trying to upset people; he just felt that [Mr. Apter] didn’t know the impact his words could have...” (page 210);
- v. Explains they had their cameras ‘on’ during the interview - it was conducted via MS Teams (page 211);
- w. Then explains, in some detail, the precise investigative approach adopted by the Police Federation (pages 211-212);
- x. Explains (page 213),
“I was not surprised about the comments Jamie discussed in his exit interview because a few exiting staff have mentioned him [i.e. Mr. Apter] in exit interviews in the past. [Mr Apter] has never been the sole cause of staff leaving but a few have mentioned that he can be rude, snappy[,] and did not listen to professional advice... there were no allegations of sexism and/or misogyny. [Mr. Apter] was dismissive of the feedback from the exit interviews”
- y. Explains (page 213),
“I don’t know [Mr. Apter] well, as we rarely had any reason to work together much... [-] my role focusses on civilian staff. I have never spoken to [Mr. Apter] outside of work”.

(2) Oral Evidence

- 58. In examination-in-chief (which commenced at 14:14 on 24.09.24), Ms. Finch:
 - a. Adopted her written statement;
 - b. Indicated she retired in 2022 and said her recollection was better then than now; and
 - c. Confirmed various exhibits were hers.
- 59. In cross-examination (which commenced at 14:20), Ms. Finch:
 - a. Confirmed that the document at page 186 was a ‘filled-in’ version of the template she would have sent Mr. Simpson for the purpose of the written exit interview;
 - b. Explained that she had removed, from the completed version returned by Mr. Simpson, certain “...comments about [Mr. Simpson’s] line manager”;
 - c. She later said she thought she “...did take some matters out about his line manager”; per Ms. Finch, later, “[I may] have [taken out things] – I am not 100% certain”;
 - d. Was taken to page 189 of the bundle, containing a handwritten note stating, “M.B. [Martin Buhagiar] letting team down. Split team doesn’t work. Doesn’t understand what team does, doesn’t understand digital – thinks it[’s] odd graphic [etc.]”
 - e. Ms. Finch was asked whether that was the kind of criticism of the organisation that was raised by Mr. Simpson in his exit interview; her answer was ‘yes’. Per Ms. Finch, “[Mr. Simpson] also put that in [his exit interview] form but... [I] took it out because didn’t seem relevant to what [was] being asked about [by the IOPC]”;
 - f. Ms. Finch could not be “categorical” about what the IOPC said their investigation was all about; per Ms. Finch, “[I] think they said it was about Mr. Apter”;

- g. Confirmed that Mr. Buhagiar was Ms. Styles' line manager (on which, see paragraph 57(o), above);
 - h. Indicated she did not know whether she would have made a handwritten note of where the incident happened if Mr. Simpson had said, in the interview, where it happened;
 - i. Explained she "*got the impression*" Mr. Apter and Ms. Styles were alone at the time it happened but she was not clear whether that was so or not from the notes she took of her interview with Mr. Simpson;
 - j. When asked whether she could recall any more context of the circumstances where, *per* Mr. Simpson, this had happened, she said, "*I can't really remember, I don't think so*";
 - k. Confirmed, when taken back to her handwritten notes, that there was "*Nothing [in them] that would help [her] recollect what else he told you*";
 - l. When pushed about what exactly Mr. Simpson said, stated she "*...didn't interrogate him about it*";
 - m. Confirmed that "*sexism or misogyny*" had never been brought up in respect of Mr. Apter at an exit interview.
60. Before re-examination, the Panel invited the witness to retire and asked the advocates whether a blank copy of the exit interview form was available and whether the 'full' copy of the document at page 186 was available, i.e. the version not showing various matters having been removed.
61. Re-examination commenced at 15:49; Ms. Finch:
- a. Confirmed that the document at page 186 was the self-same document referred to at both pages 205 and 206 of her written evidence – this was the written interview template;
 - b. She could not recall whether she sent anything else out, i.e. aside from the blank version of that form. She explained that she had not worked there for two years and referred to a personal matter she was experiencing in her life as to why she could not be clearer.
62. The Panel asked a single question (time not recorded). Ms. Finch indicated she could not remember, "*...hand on heart... whether she gave the complete [form, i.e. the document at page 186 with all of Mr. Simpson's answers showing] to the IOPC*".

c) Martin Buhagiar

(1) Written Evidence

63. Martin Buhagiar was the Head of Communications at the Federation at the time he made his statement; that statement is dated 20.03.22 and commences at page 328.
64. There, Mr. Buhagiar:
- a. Explains that Ms. Styles was on maternity leave when he started at the Police Federation in August 2019 (page 330);
 - b. Explains that Ms. Styles said to him, whilst they were discussing her return to the office, that (page 330),
"[Mr. Apter] said to her something like, 'Maybe you'll grow an arse now', and she said sarcastically that she was 'looking forward' to those kind of comments again. [/] Charlotte has actually mentioned [Mr. Apter's] comment to me three or four times in total. I specifically

remember one time she mentioned it was whilst we were at an annual conference a couple of years ago, during a conversation about inappropriate comments being made by senior personnel, which I think was in the presence of Jamie Simpson too”;

- c. Sets out that he had a “good working relationship with [Mr. Apter] but he is careless in what he says” (page 330).

(2) Oral Evidence

- 65. In examination-in-chief (which commenced at 10:16 on 25.09.24), Mr. Buhagiar adopted his written evidence.
- 66. Mr. Buhagiar’s cross-examination is set out here and at sub-section II.D.2.c below; in cross-examination (commencing 10:16), Mr. Buhagiar:
 - a. Confirmed he came to the Federation in August 2019 – that his role was initially Deputy Head of Communications but that he was made Head of Communications in December 2019;
 - b. Explained that he came from outside the ‘world’ of policing – he had been an editor of Police Oracle and in regional journalism beforehand;
 - c. Explained that the conversation with Ms. Styles was face-to-face – she had come into the office with her baby; because Ms. Styles had been on maternity leave when Mr. Buhagiar started, he had really not spoken to Ms. Styles before;
 - d. Set out that it was clear to him, from what was said to him, that Mr. Apter – rather than someone else – had uttered that comment;
 - e. Was asked whether she could have been describing something that happened in the office but was said by someone else. *Per* Mr. Buhagiar, “Potentially... I wasn’t there when this happened”;
 - f. Confirmed his only knowledge of the incident was this “light-hearted” conversation with Ms. Styles that was said in “...an embarrassed, jokey way”. Mr. Buhagiar said, “If you ever want to speak about this privately, come and see me”;
 - g. Was asked about whether she had said it three or four times to him and, if so, when? *Per* Mr. Buhagiar, “They [the comments from Ms. Styles] were always... maybe [when another comment was] taken as unprofessional. [Accounts of] These kind of comments would then happen. ‘So and so’ would say this and there would then be a chain of events where people would talk about the different comments that they heard... ”;
 - h. Was asked about the fact that comments made in 2020 were being heard again in 2022; *per* Mr. Buhagiar, “That, unfortunately, is how the Federation operates”. Mr. Buhagiar recounted a situation, in relation to attending the Federation’s annual conference in London in 2021 that, after going out for drinks afterwards, the alleged comment to Ms. Styles (and the alleged comment in respect of Mr. Harper) came up again; *per* Mr. Buhagiar, these issues came up at “most events”. *Per* Mr. Buhagiar, “We were trying, as heads of department, to make the organisation more professional – [it was] difficult at that time”;
 - i. Explained, when it was put to him that people were leaving because of him, “People were not leaving because of issues with Communications... people were leaving because of issues with the Federation – it was not

a nice place to work... It holds on to information and releases it at a certain time... [Mr. Buhagiar] was furious [that he was not told about an incident with which we are not concerned with the Bravery Awards held in October 2021 until after the next Bravery Awards in December 2021]”;

- j. Had it put to him that employees were leaving because of his management style. Mr. Buhagiar accepted that people were not happy with certain decisions of his to re-organise the team;
 - k. Had it put to him that the various passages of his statement were written because he and Mr. Apter did not have a “*good relationship at the end*”. It was put to him that he was “*...happy to put the knife in*”. *Per Mr. Buhagiar, “I was not investigated – I was thanked at the end [for my work at the Federation]. It is disappoint[ing] for [the assertion put to him in cross-examination] to be alleged against a civilian who has told the truth. I did not feel the relationship was a bad relationship – I thought we worked well together. It was a shame to see [Mr. Apter] go – one of the things I liked about him was you knew where you stood. He would not tell you one thing and do another – if he was not happy, he would tell you”.*
67. Mr. Buhagiar’s re-examination is set out here and at sub-section II.D.2.c, below; in re-examination (commencing 11:44), Mr. Buhagiar:
- a. Said that Mr. Apter engaged in “*bloke banter*” with Mr. Donald but that, as a whole, the organisation was “*more professional*” when a female member of staff was present;
 - b. Explained his view that Mr. Styles likely raised the issue of what was said to her each time the matter was brought up at subsequent conferences as “*a defence mechanism*” so that someone else did not bring it up.
68. The Panel asked questions (commencing at 11:59) (see also sub-section II.D.2.c); Mr. Buhagiar confirmed he had been at the Federation from August 2019 to June 2022. He now ran his own communications business and worked with police forces – he had written a few freelance articles about policing;

d) *Che-Paul Donald*

(1) Written Evidence

69. Mr. Donald’s witness statement on this subject is dated 09.05.22; it confirms that he did not overhear Mr. Apter saying anything to Ms. Styles relating to her bottom when Ms. Styles told Mr. Apter she was pregnant (page 309). *Per Mr. Donald (page 309):*
- “I believe that I learned of Charlotte becoming pregnant through a third party as I don’t remember her telling me herself that she was pregnant. I do remember having discussion with Charlotte about her pregnancy, but this would have been general discussions such as me asking if the baby was her first child and if the baby was a boy or girl, we did not talk in depth about her pregnancy”.*

(2) Oral Evidence

70. Mr. Donald commenced his examination-in-chief on 25.09.24 at 12:16 (see also sub-sections II.D.2.b and II.E.2.a, below); Mr. Donald adopted his written statement and confirmed that he retired in August 2022.
71. Mr. Donald's cross-examination commenced at 12:17 (see also sub-sections II.D.2.b and II.E.2.a, below); Mr. Donald:
- a. Indicated that he was 'behind the curve' in learning that Ms. Styles was pregnant;
 - b. Said that, maybe, he saw her on her last day before she left for her maternity leave;
 - c. Confirmed that he did not hear anyone make such a comment, let alone Mr. Apter;
 - d. Denied ever making a comment about her bottom or getting a bigger bottom;
 - e. Denied saying anything along those lines that could have been misconstrued.

e) Investigator Stephanie Smith

(1) Written Evidence

72. IOPC Investigator Smith was asked about the IOPC investigator's report dated 26.06.22; it begins a page 14.
73. During the final hearing, Ms. Smith also produced a written document (dated 25.09.24) for the Panel answering questions that were posed to her in writing by the Chair at the outset of the final hearing. That mechanism of the Panel asking her questions was suggested by the Chair because of correspondence received before the final hearing - there is a large amount of paper generated by this investigation and fairness required that Ms. Smith be given an opportunity to consult the file properly before responding to the Panel's questions. Neither party objected to such a course.
74. The report explains that Mr. Simpson declined to provide a statement (page 23).
75. In her written answers to the questions (looseleaf), Ms. Smith:
- a. Confirmed that the handwritten words on Investigator van Brienan's notes at Supplementary Bundle page two were from '18.01.22' not '16.01.22';
 - b. Explained that emails from the IOPC to Mr. Simpson on 20.01.22, 04.02.22, and 16.03.22 all went unanswered;
 - c. Confirmed that there was no other communication with Ms. Styles leading the latter to believe that it was the IOPC asking her to seek legal advice beyond those documents already in the bundles;
 - d. Confirmed that the statement of Jill Vale at page 662 was the version of that statement *before* Ms. Vale had struck out various passages. The latter was subsequently provided, looseleaf, to the Panel.

(2) Oral Evidence

76. In examination-in-chief (which started on 26.09.24 at 15:25), Ms. Smith:

- a. Explained that she did not produce the various CCTV logs in the bundle (logs where someone at the IOPC has watched hours of footage and produced a chronology of what can allegedly be seen);
 - b. Said that she was not the author of the final IOPC investigator's report because she was on an extended period of leave at the point it was being finalised;
 - c. Said that, on the current version of the template used by the IOPC there is a box in the report that says who the author was but that does not appear on the old template;
 - d. Explained, in summary form, the respective responsibilities of the IOPC and Hampshire and Isle of Wight's PSD in the preparation of this case.
77. In cross-examination (which commenced at 15:33), Ms. Smith:
- a. Was asked whether the IOPC investigated Mr. Donald given that it was Ms. Styles' account to Investigator van Brienan that the comment was most likely made by him. *Per Investigator Smith, the IOPC tried to get a formal statement from Ms. Styles but – at that time – she was reluctant to provide an account. The IOPC wanted a formal account from her;*
 - b. Had it put to her that the IOPC carried on investigating Mr. Apter for this allegation knowing that the complainant in relation to it said it was Mr. Donald who made the comment. Ms. Williamson asked, "*Why [were] you not investigating Mr. Donald too?*". *Per Investigator Smith, "The IOPC only has the power to investigate matters that are referred"*;
 - c. Had it put to her by Ms. Williamson, "*Why did the IOPC not go back to Hampshire (or whichever force [Mr. Donald] is in) and ask them to refer him for these matters?*". Ms. Williamson further asked whether there were any decision logs. *Per Investigator Smith, "I cannot remember pursuing Mr. Donald as a subject to any of these allegations. [Ms. Styles] made it clear she didn't want to put anything formal or submit anything formal to the investigation"*;
 - d. Had it put to her that it was an 'odd position' that, despite someone else being named, this allegation was pursued against Mr. Apter;
 - e. Was asked whether the telephone call note from Ms. van Brienan when Ms. Styles said what she said was passed to Hampshire. *Per Investigator Smith, "When [we made the] referral at the end of the investigation, what was sent was a copy of the final investigation report, a bundle of material references within the report, and a supplementary schedule of everything gathered. I believe those notes, if referred to in the report, would have been provided"*. She was asked to check that point; she explained that if that telephone note was not referred to in the report, then Hampshire would have to request it from the IOPC;
 - f. Had it put to her that there was therefore a flaw in the original system of sending important papers (such as that) from the IOPC to Hampshire;
 - g. Said it was difficult for her to comment because, from a report-writing perspective, "*...we are encouraged not to rely on unauthorised accounts [, i.e.] comments that do not make it into statements"*;
 - h. Had it put to her, in terms, that such an approach meant that Mr. Apter received a regulation notice, was interviewed, and the matter proceeded to a final hearing on the basis of an approach that subordinated evidence that undermined the allegation. *Per Investigator Smith, "I did not know at that stage whether it would proceed"*;

- i. Was asked whether Mr. Simpson replied to calls as well as emails; *per* Investigator Smith, “*I remember [Investigator van Brienan] telling me that that [Mr. Simpson] was not responding*”;
 - j. Had it put to her, from a statement in the proceedings, that Hampshire had had no further contact with Mr. Simpson because they regarded it as the IOPC’s sphere. Ms. Williamson asked if the IOPC had attempted to contact Mr. Simpson since May 2022;
 - k. Was asked if Mr. Simpson even knew of the final hearing given the fact he could be named in these proceedings. *Per* Investigator Smith, “*He is not a witness in our investigation because he did not respond to [those] emails [to] provide an account*”;
 - l. Was asked if, when the material is passed from the IOPC to Hampshire, that is “*the end of the IOPC’s involvement*” – she confirmed it was;
 - m. Was asked if Ms. Finch had been asked, by the IOPC, to provide the ‘full’ version of Mr. Simpson’s questionnaire; she said that she believes they did ask although she could not say when or how. *Per* Investigator Smith, “*We know, from looking at the handwritten notes of Ms. Finch, that she was jotting down a number of matters that Mr. Simpson was raising about Mr. Buhagiar and about mismanagement within the Federation*”;
 - n. Was asked whether the IOPC considered, at all, whether these handwritten notes were revealing far more than the redacted typed document they had been provided. *Per* Investigator Smith, “*I can remember some discussions about this because the IOPC do not have free reign to go digging into everything.... [The terms of reference] are approved by my seniors*”;
 - o. Said that the IOPC was concerned with identifying whether a particular ‘threshold’ for an allegation was crossed. Investigator Smith said that the difficulty was the (then) position in relation to Ms. Styles was not so much that what Ms. Styles said was not in statement form but that what she had said was “*not concrete*”;
 - p. A trilogy of propositions were put to Investigator Smith about a lack of robustness in the investigation – that there had been no ‘follow up’ with Mr. Simpson; Ms. Finch had provided a redacted *pro forma* document; and Ms. Styles had not provided a statement. *Per* Investigator Smith, “*It is frustrating when a witness won’t provide a statement. At some point you have to carry on because of timescales*”.
78. In re-examination (which commenced at 16:10), Ms. Smith:
- a. Explained that any witness statement bears a statement of truth and confirmed the importance of one;
 - b. Explained that the threshold test was the “*indication test*” and that Mr. Buhagiar had been quite clear that Mr. Apter had made the comment;
 - c. Was asked about the reasons for Ms. Styles’ reasons for being reluctant – she was taken to page 644 of the bundle.
79. The Panel (time not recorded) simply confirmed the process again as to the respective involvements of the IOPC and Hampshire and asked about whether, alongside the report, the schedules that were sent to Hampshire contained every single document, in a table, that was relevant to the investigation. Investigator Smith confirmed that the telephone note of Investigator van Brienan was on that schedule.

f) Detective Constable Esra Phillipson-Masters

80. DC Phillipson-Masters is the OIC in Hampshire. She gives a statement dated 11.03.24; that commences at page 709.
81. There, DC Phillipson-Masters:
- a. Explains that on 12.02.24 she phoned Ms. Styles asking her to call her back;
 - b. Sets out that, two days later, Ms. Styles called back and said that she was in Mr. Apter's office with both him and Mr. Donald – she recounted that one of them said “*You’ve actually got an arse now you’re pregnant*” (page 711). *Per* Ms. Styles, she was not “*offended*” by the remark;
 - c. Explains that a witness statement was taken from Ms. Styles and signed by her on 16.02.24.
82. As with Investigator Smith, questions from the Chair were sent in advance to DC Phillipson-Masters with appropriate notice during this final hearing. The answers to those questions were contained in a witness statement dated 26.09.24 (looseleaf). There, DC Phillipson-Masters:
- a. Was asked to clarify the wording of the statement at pages 709-710; she re-attached an email which answered the question;
 - b. Was asked whether she made contact with Mr. Simpson. She explained she did not because the investigation was conducted by the IOPC and their enquiries with him were already made.

g) John Apter

(1) Written Evidence

83. Mr. Apter gave a response to caution document dated 23.05.22; it commences at page 163.
84. There, Mr. Apter:
- a. States he has not been served with a statement by Ms. Styles (page 163);
 - b. Indicates his confusion about inconsistencies in her statement (page 163); and
 - c. Denied the allegation as something, in terms, he would not say (page 163).
85. Mr. Apter's Regulation 31 statement is undated but it commences at page two his bundle; the statement is set out elsewhere in sub-sections II.D.2.e and II.E.2.i, below). There, Mr. Apter:
- a. Denied making either version of the alleged remark (page seven);
 - b. Referred to a particular personal matter on the part of Ms. Styles that made the news that she was pregnant very special;
 - c. Said he had no recollection of he or Mr. Donald making such a remark – he would have challenged the latter if he had uttered that.

(2) Oral Evidence

86. Mr. Apter commenced examination-in-chief on 01.10.24 at 12:09; the rest of it is set out at II.D.2.e and II.E.2.i, below. Mr. Apter:
- a. Set out his career history;

- b. Explained the historical process for electing the Chair of the Police Federation and how he was the first directly-elected Chair from its members;
 - c. Explained that he knew Ms. Styles before becoming Chair;
 - e. Set out that Ms. Styles had her daughter in August 2019;
 - f. Explained that he had multiple interactions with Ms. Styles and that she had an important role in the Federation;
 - g. Could not recall when she told him about her pregnancy;
 - h. Said that there would have been many occasions in 2019 when he, Mr. Donald, and Ms. Styles were all in his office together;
 - i. Said, when asked whether he said the words attributed to him, *“Absolutely not. It would have been a deeply-offensive and illogical comment. With [Ms. Styles] being a member of the team, knowing what she had been through – it would not be in my vocabulary to say such a thing”*. Mr. Apter indicated that he was never present when Mr. Donald allegedly said anything like that either.
87. Mr. Apter was cross-examined on both 01 and 02.10.24; his cross-examination commenced at 14:32 on 01.10.24. The rest of it is set out at II.D.2.e and II.E.2.i, below. Mr. Apter:
- a. Accepted he had a *“privileged role”* amongst *“the federated ranks”*;
 - b. Had it put to him that it was a *“role of significant prestige and profile”*;
 - c. Indicated that he had briefly met the (presumably, then) Prime Minister and had meetings with senior political figures such as the Home Secretary, the Policing Minister, etc. around every three months;
 - d. Had it put to him that he was an *“experienced public speaker”*; he said he was not always *“good at it”*;
 - e. Had it put to him that, as the first directly-elected Chair in its history, whether his speaking abilities *“helped [him] to get the votes he needed”*;
 - f. Said he did not know if most police officers would recognise him – *per* Mr. Apter, a lot of them did not know him;
 - g. Had it put to him that he courted the media and had a public profile that would have meant people knew who he was – he said, *“possibly”*;
 - h. Had it put to him that people recognised him from the ‘telly’; he said *“occasionally”*;
 - i. Was asked about the structure of the Federation and gave detailed answers about the National Board and how, precisely, it interacted with local branches;
 - j. Mr. Apter resisted the description of the National Board as *“the senior command”*, referring to local branches as being *“quite autonomous”*;
 - k. Described how he knew Ms. Styles and her role in the Federation;
 - l. Described, in considerable detail, the management structure of the Federation and the difference between how the Chair and the Vice-Chair got their positions;
 - m. Denied that people challenged his or Mr. Donald’s behaviour;
 - n. Denied that there was pervasive banter [among the senior officers at the Federation]; he said there was *“good-humoured joking with colleagues”*.

He agreed that banter that “crossed the line does not have a place in policing”. Per Mr. Apter, “Maybe a decade or two it was acceptable. I challenged it. I said very publicly about misogyny and banter”;

- o. Denied hearing inappropriate banter on a “regular basis”. Per Mr. Apter, “...my position meant people were more behaved when I was there”;
- p. Had Mr. Buhagiar’s description of the lack of professionalism at the Federation put to him. Mr. Apter described the “real friction” as being between the National Board and the communications team. He was asked further questions of clarification by the Panel about that – in short, the National Board were all clambering to put out content but there was only so much content that the communications team could put out whilst remaining effective;
- q. Had it put to him that there was “pervasive banter among [the] principal officers”. Per Mr. Apter, “I don’t recall that pervasive banter or lack of professionalism. I do not recognise it, no”;
- r. Vehemently denied making the comment about Ms. Styles;
- s. Had it put to him that the various witnesses who had said he had said that were all wrong, “I cannot understand the motivation behind Mr. Buhagiar and Mr. Simpson”;
- t. Said, “If anyone else said it, it would be deeply offensive and I would challenge it”.

D. Charge Two – 27-28.01.20 (Lissie Harper)

1. Undisputed Evidence

a) Emails

(1) Jill Vale

- 88. There are various emails between Investigator van Brienan and Jill Vale, the (then) personal assistant to the Chair and Vice-Chair at the Federation.
- 89. In the course of an email dated 05.04.22, Ms. Vale says, “For your information I did not attend the Roads Policing Conference, I have not been to one since I started here 14 years ago” (page 658).
- 90. A draft witness statement was plainly prepared at some stage; Ms. Vale asked for it to be amended in various respects (page 653). A further email asks Ms. Vale to sign that statement.
- 91. Ms. Vale replies, on 29.04.22, in these terms (page 652):
 “...I am writing to let you know that I do not wish to proceed any further with my statement. [/] As you know I have not been well recently (heart failure) and would prefer not to have any potential additional stress... ”.
- 92. Ms. Vale later states, on 03.05.22, “...apologies for taking up your time on this, I just feel that I need to reduce the risk of any possible stressful situations at present” (page 650).

(2) Steve Bax

93. There is an email from IOPC Investigator Louw to Mr. Bax on 12.04.22 chasing an earlier request for an interview with him.
94. There is then a reply, dated 12.04.22, in these terms from Mr. Bax (page 648):
“...I’ve reflected on this and am not going to make a statement. I would just say that I don’t recall anything untoward being said at Roads Policing by [Mr. Apter] in that time. I always found him to be professional, very caring about the membership, a brilliant communicator, and overall a good boss... I am disappointed that his time as Chair has ended under a cloud and I hope your investigation results in his exoneration as quickly as possible”

2. Witnesses

a) Tricia Finch

(1) Written Evidence

95. Ms. Finch’s statement is otherwise set out above (sub-section II.C.2.b). So far as it relates to this allegation; Ms. Finch:
- Set out that Mr. Simpson told her Mr. Apter said, *“I wouldn’t mind looking after her”* after someone mentioned that she would need looking after;
 - Explains, *“[Mr. Simpson] was clear that the comment was sexual in nature”*;
 - Set out, *“[Mr. Simpson] also indicated that his manager... had been present at the time and had also overheard the comment... [Mr. Simpson] did not mention any further people who may have been present...”*;
 - Explained, *“I am pretty certain this comment did not get reported to anyone in the Leadership team or HR as it is a very serious comment to make, and if it had been reported I would have been aware of the comment having taken place”*.
96. From Ms. Finch’s notes dated 17.11.21 (paragraph 57(m), above); *per* Mr. Simpson to her (page 191):
“There were several examples of [sexist/misogynistic comments made by senior officers who then spoke against misogyny]... One example was at a Roads’ Policing Event 2 years ago which was attended by [Lissie] Harper, the widow of PC Andrew Harper, a murdered police officer. [/] The team was told that she would need to be looked after. [Mr. Apter] was heard by Jamie and Martin Buhagiar to say, ‘I wouldn’t mind looking after her tonight’. Jamie was clear that John’s comment was sexual”.

(2) Oral Evidence

97. Much of Ms. Finch’s oral evidence is summarised above in sub-section II.B.2(b).
98. In relation to this allegation, in cross-examination, Ms. Finch:
- Was asked if Mr. Simpson told her when the remark was said during the conference; *per* Ms. Finch, *“not that I recall”*;

- b. Was asked if Mr. Simpson mentioned the presence of anyone else; *per Ms. Finch, "he didn't tell me who was present. [Martin Buhagiar] definitely overheard the comment"*;
- c. Explained, when pushed, that nothing Mr. Simpson said gave her cause to differentiate between Mr. Simpson or Mr. Buhagiar 'hearing' or 'overhearing' the remark;
- d. Was asked what Mr. Simpson said to make Ms. Finch believe that he believed the comment was sexual. *Per Ms. Finch, "He said something along the lines of it was his belief it was of a sexual nature"*;
- e. Was asked whether Mr. Simpson said anything to her about why it was thought to be sexual, *"I cannot say with enormous certain[ty] but it was the way it was said. He said it himself about the way [Mr. Apter] said it"*;
- f. An item of the unused material was put to her. She was asked whether Mr. Simpson said Mr. Buhagiar had challenged or commented upon it; *per Ms. Finch, she was "pretty sure that Jamie said that he didn't"*.

b) Che-Paul Donald

(1) Written Evidence

- 99. The witness statement dealing with this allegation is dated 09.05.22; the rest of Mr. Donald's written evidence is set out at sub-sections II.C.2.d and II.E.2.a, above and below.
- 100. There, Mr. Donald:
 - a. Explains that he attended the Federation's Road Policing Conference from 27-28.01.20 in Kenilworth (page 306);
 - b. Explains that he attended a number of events similar to this (page 306) but that he remembered this one because the event facilitator the Federation had proposed to use cost too much money;
 - c. Explains that Ms. Harper collected an award on her late husband's behalf;
 - d. Explains (page 307),

"I can recall a discussion I had with Claire Blekkenhorst about [Ms. Harper]. I think we discussed practical matters such as where [she] would be sitting, if she had family with her, if she was going to be okay and about her speech she was planning to give. From memory this conversation was only between myself and Claire";
 - e. Sets out (pages 307-308),

"I have been asked if I recall [Mr. Apter] making any inappropriate comments about [Ms. Harper] at this event, and I do not. I know [Mr. Apter] was present during the 2020 Roads Policing Conference event as he gave a chairman's address at the event, and presented [Ms. Harper] with PC Harper's posthumous award. I think I recall [Mr. Apter] giving [Ms. Harper] a hug after he presented her with the award, and I think they sat on the same table during the awards ceremony. I am not sure why, but I think [Mr. Apter] and [Ms. Harper] do know one another, he and I both attended PC Harper's funeral so I know they met previously. I am not sure why, but I just got the impression they kn[e]w one another"

(2) Oral Evidence

101. The rest of Mr. Donald's cross-examination can be found at II.C.2.d and II.E.2.a, above and below. In relation to this allegation, Mr. Donald:
- a. Stated that he was there for the whole event – he could not remember whether he stayed up there the night before but likely would have;
 - b. Said that Mr. Apter, Ms. Blekkenhorst, members of the Communications Team, Mr. Simpson, Mr. Buhagiar, as well as Jill Vale, were there;
 - c. Said there would have been discussion about the special recognition award Ms. Harper was due to receive on her husband's behalf. *Per Mr. Donald, "To be absolutely honest, what we discussed and trying to recall those exact conversations is quite difficult";*
 - d. Said that, with all the work to be done at the conference, and having to facilitate one of the sessions as well, he was busy. *Per Mr. Donald, if Mr. Apter had said anything inappropriate he thought he, "would have recalled".*

c) Martin Buhagiar

(1) Written Evidence

102. In his statement (otherwise set out at sub-section II.C.2.c, above), Mr. Buhagiar:
- a. Explains he attended at the Roads Policing Conference in 2020. Mr. Buhagiar was with Mr. Apter, Mr. Donald, Jill Vale (Mr. Apter's assistant), Steve Bax, Clare Blekkenhorst, and Jamie Simpson on 27.01.20 (i.e. the day before the conference was due to begin) (page 328);
 - b. Sets out he was in a large room gather in a 'huddle' speaking about Ms. Harper who was due to attend on 28.01.20. There was conversation about who should accompany Ms. Harper at the event (page 328);
 - c. Said (page 328), *"I can't remember the exact wording but [Mr. Apter] said something along the lines of 'I'd like to comfort her in my hotel room'";*
 - d. Said (page 328),
"...[that] really stuck in my mind, firstly because I was fairly new in post at the time and secondly, I came from a background of regional journalism, a corporate world where no one would ever dare say anything like that. So it came as a surprise to me that [Mr. Apter] was so free with his words. It was awkward and the 'huddle' seemed to disperse after this. It was all over really quickly";
 - e. Said (page 329),
"...I did not know [Mr. Apter] that well at the time, but others in the 'huddle' that knew him better than me did not find this type of comment unusual. I imagine it is what [Mr. Apter] would describe as 'banter' but it did not feel like banter to me";
 - f. Explained that he spoke with Mr. Simpson about it around 19:30 later that evening. Both of them agreed what Mr. Apter had said was *"insensitive"* and *"ridiculous"* (page 329); *per Mr. Buhagiar (page 329), "This was the first time I had witnessed something like this. [Mr. Simpson] explained to me there were lots of other inappropriate things*

- [Mr. Apter] had said in the past. We discussed raising it after the event... Nothing happened and we didn't take it any further"*
- g. Explained (page 329),
"On the night of the 28.01.20, [Mr. Apter] gave a speech and presented PC Harper's award to [Ms. Harper]. I would describe his conduct on the night as very professional. [Mr. Simpson] and I spoke after the event and I recall [Mr. Simpson] was frustrated that [Mr. Apter] had said something so callous behind [Ms. Harper's] back but had acted like a completely different person to her face".
 - h. Mr. Buhagiar opined that, at the 2020 Bravery Awards Event (which took place on 12.10.21), Mr. Apter had consumed a "fair amount of alcohol" (page 329); per Mr. Buhagiar (page 329),
"Prior to the end of the evening, we attempted to interview [Mr. Apter] but due to his alcohol consumption, and the slurring of his speech, we were unable to use the interview footage. For the subsequent Bravery Awards in December 2021, we recorded and interview with [Mr. Apter] before the event began, to ensure he would not be drunk at the point of interview"

(2) Oral Evidence

103. In cross-examination (otherwise set out at sub-section II.C.2.c, above), Mr. Buhagiar:
- a. Explained that the Roads Policing conference was a two-day event starting on 28.01.20 – he travelled up on 27.01.20 to help 'set up' the event;
 - b. Explained that the room the 'huddle' assembled in was the same room that the event was held in – he and others were talking about logistics – how people would be brought in, where people would be positioned, etc. There were *"three or four conversations"* going on at the same time. Mr. Buhagiar was mainly talking to *"Jamie [Simpson] and Steve [Bax] in my team"*;
 - c. Set out that when the incident happened it was *"late"*; per Mr. Buhagiar, *"I travelled up from Leatherhead. I got there at about 19:00 – I had done a few hours of work... it was around 21:30"*;
 - d. Explained that the various people mentioned in his witness statement arrived at different times;
 - e. Indicated that he was concerned that Ms. Harper would be *"emotional"* receiving the award; members of the press were going to be there. Per Mr. Buhagiar, he did not want a photograph taken of Ms. Harper outside of the hall;
 - f. Said there was a discussion about which organisation was going to arrange for someone to be present to support Ms. Harper. It was discussed whether that should be someone from Thames Valley Police;
 - g. Said,
"Everyone [was] concerned that she had the support she would need – this was quite soon after the death of her husband... it was one of the first appearances in terms of being around fellow police officers at the Federation and around the press. [I] wanted to make sure it was being handled in the correct way";

- h. Was asked where he was positioned when he heard the comment from Mr. Apter. *Per Mr. Buhagiar, "...I was with Jamie, Steve, and Clare [Blekkenhorst]... it was a long time ago... Mr. Apter, [Mr. Donald], and Jill [Vale] were talking in the same sort of area of the room but a slightly different conversation"; per Mr. Buhagiar, there were "a number of conversations going on";*
- i. Set out that he was "in and out" of the conversation with Mr. Apter, Mr. Donald, and Ms. Vale. He explained that one of the difficulties discussed was about who was going to moderate a particular panel because there was some concern as to whether the proposed moderator would turn up;
- j. Was asked what others in the group were talking about in the buildup to the comment Mr. Apter allegedly made. *Per Mr. Buhagiar, "...[it was something like,] 'we will just have to make sure that we bring her in and if she needs to pause outside then we can afford her that pause'"; he went on to explain there was fear because "...we didn't want there to be a photo of Ms. Harper in an emotional state – we made the point that there wouldn't be any photos of that nature that she was concerned about";*
- k. Had it put to him that it took until March 2022 for him to give a statement. Mr. Buhagiar explained that he was, *"...trying to do [the statement] from memory... the hardest part was that people spoke about it afterwards as well".* When asked further about that, he said, *"We went to the bar and Jamie was talking about it... I remember those conversations – I was a bit concerned because I didn't want the team on a night of a big event to get 'carried away' with it. I was prioritising the event. [I thought] we will deal with [this] when we are back in Leatherhead";*
- l. Returning to the question of whether his recollection of what Mr. Apter actually said was influenced by what others told him, Mr. Buhagiar said that *"There were different variations [reporting what Mr. Apter was supposed to have said] – 'comfort her in hotel room' [was one of them]. It took me a few seconds to hear [i.e. understand] it. I [initially] took it as the comment, 'I can comfort her and take her to the stage'. A few seconds later – I processed it";*
- m. Had it put to him that there was a distinction between what he heard and how he interpreted it. *Per Mr. Buhagiar, "When you hear people saying words; a few seconds later [there] is [then] what you hear... in your head [after processing it] - it was a joke or whatever... I heard the statement [in my head] and[there] was a fairly awkward silence – people [were] stood there looking. I tried to move the conversation on. The huddle finished after that. I [bought] a drink after that. That was when [I] became aware of the variation [in what Mr. Apter was supposed to have said]";*
- n. Was asked whether the words used were "can" or "would like" to comfort her; he replied, *"...[it is] really difficult to remember".* The words he had recorded in his statement were put to him; his response was, *"Those are the words I remember";*
- o. Confirmed that he could not remember the precise order the words came in;
- p. Set out, returning to the immediate aftermath, that, *"I was looking down – it was said. It turned into a more jokey conversation – it then moved on";*

- q. Agreed that Mr. Apter was one of those people that was concerned Ms. Harper be properly supported; *per* Mr. Buhagiar, “...[Mr. Apter] and I had meetings talking about how best to go about it”;
- r. Agreed that, as a former roads policing officer and in view of it being Ms. Harper’s first public appearance, Mr. Apter “cared” about the event;
- s. Explained, “...our biggest concern was that... we didn’t want to get any criticism [in respect our handling of this sensitive awards ceremony involving Ms. Harper]. I know how the Federation can work”;
- t. Confirmed that he was aware Mr. Apter had spoken to the Thames Valley Police Chair in advance of the event and that he was “...having conversations with the right people”;
- u. Explained that Mr. Apter was ‘involved’ in speaking to the third-party media management company that the Federation engaged for that event;
- v. Had it put to him that Mr. Apter may have said the words ‘comfort her’ but not ‘in my hotel room’. *Per* Mr. Buhagiar,
“I don’t think so... I think throughout the evening, we got changed out of our suits, [there were a] number of conversations where [we] go [from being] professional to joking – at that point, [I] felt that was meant as humour”;
- w. Explained that Mr. Bax was at the bar too but that his memory of that was “hazy”;
- x. Had it put to him, if he and Jamie Simpson had discussed the inappropriateness of Mr. Apter’s remark, why he did not raise what Mr. Apter had said with him. *Per* Mr. Buhagiar, “From my point of view, there was no point raising it that evening – I could raise it after the event”;
- y. Was asked,
“If, on 27.01.20, you heard something like ‘comfort her in my hotel room’, why not just say something immediately such as ‘that’s not funny’ or ‘that’s not appropriate’?”; per Mr. Buhagiar, “My style was never to confront people in a crowd. [Mr. Apter] and I have worked together for years – [we would resolve the issue] privately. [I] did not want to turn it into a big issue...”
- z. Explained that the Federation was,
“...not a professional organisation... [it] became apparent early on that to try and manage each individual issue was not manageable... we didn’t have the time [to resolve the issue there and then] because – from the next day – it was ‘flat out’”
- aa. Explained that, when he was back at the Federation’s headquarters, he had further conversations about it. There, he was asked by a member of the team if he had raised it – that was Jamie Simpson who asked him. *Per* Mr. Buhagiar, two people had been to see the operations director at the time;
- bb. Set out that there was a “...team meeting on the Monday. Someone mentioned it there – there was talk about this so it is not a burden on the Communications Team – it was causing a lot of issues in the team”;
- cc. Explained, after that, that it had come up, “...once or twice when an issue happened. [Whenever something inappropriate happened, there was]. ‘Remember this?’, ‘Remember that?’. [There were] a series of different times when that would happen”;
- dd. Set out when he spoke to different people, Jamie Simpson, Claire Blekkenhorst, and the operations director about it; *per* Mr. Buhagiar, “...I

- was not asked to prepare anything in writing until my statement in 2022*". Mr. Buhagiar never heard about it again until after Mr. Apter's suspension;
- ee. Had it put to him that his recollection what Mr. Apter said was influenced by Mr. Simpson. Mr. Buhagiar explained that, after the event, he had a meeting and he wrote down the phrase. *Per* Mr. Buhagiar, he probably had that note at home. Mr. Buhagiar was then asked if he mentioned that to the IOPC. Mr. Buhagiar said he did not - it was "*just a notepad*". Mr. Buhagiar indicated he would have the notepad at his home;
 - ff. The Chair asked whether the meeting this note pertained to was the one he had mentioned earlier in his evidence – the one where the 'burden' falling on the Communications Team was discussed. Mr. Buhagiar said the meeting the note pertained to was either 'Monday' or 'Tuesday'. *Per* Mr. Buhagiar, "*[He] didn't want the team gossiping about it – [he] didn't want it to be exaggerated*".
 - gg. Was then about to be asked about the videos from October 2021 allegedly showing Mr. Apter drunk at that bravery awards ceremony:
 - i. A short objection was heard, advanced by Ms. White, as to the relevance of Ms. Williamson's proposed questions to the witness about that. *Per* Ms. White, there was no allegation in relation to October 2021 - it was irrelevant;
 - ii. The Chair considered that Ms. Williamson's proposed line of questioning went to Mr. Buhagiar's credibility if it succeeded. There was a sufficient nexus between the issue of Mr. Apter's level of intoxication at an official Federation event in October 2021, where the media was present, and the disputed issues for resolution in this case:
 - 1. It had been Mr. Buhagiar's evidence that the Federation was not a professional organisation - sexual or misogynistic comments were made in the presence of more junior officials by more senior office-holders; these were then cited as examples of a poor workplace culture repeatedly by junior staff. The line of questioning did appear to be relevant to the issue of whether Mr. Apter observed high standards of professionalism generally. It may not have been the most important point in the case but, if Mr. Apter was intoxicated at an important function like that, then it could have bearing on the Panel's assessment of whether such comments are more likely than not to have been said in such a workplace culture;
 - 2. The issue also appeared to be relevant to the issue of whether Mr. Apter's was intoxicated, i.e. for the alleged incident on 08.12.21;
 - hh. Had it put to him that the video referred to in his statement from October 2021 was set against the background of Mr. Apter trying to talk over some background noise at an exhausting event for him. Mr. Buhagiar confirmed that Mr. Apter did not have a script; *per* Mr. Buhagiar, "*[Mr. Apter] was always good on camera*". Mr. Buhagiar agreed Mr. Apter is "...very good at speaking 'off the cuff'";
 - ii. Had it put to him whether his description was a 'fair' summary of the clip. That was then played to him;

- jj. Explained that the word ‘police’ at the beginning of the piece was mispronounced and that Mr. Apter’s speech appeared slurred;
- kk. Had it put to him that it was his belief that that was caused by alcohol consumption. Mr. Buhagiar explained that another person had brought a ‘hip flask’ to the event and that Mr. Donald and Mr. Apter were drinking from it. In response to that evidence, Mr. Buhagiar had it put to him that this was an event where every Chief Constable was present – [the (then) Metropolitan Police Commissioner] Cressida Dick was present;
- ll. Mr Buhagiar persisted in saying Mr. Apter was drinking from a hip flask. *Per Mr. Buhagiar, “After every winner, he come out to the lobby where we set up the screens... have... a swig and then go back in. [I] just thought – ‘this is what they do and we will try and change it in the future’”;*
- mm. Had it suggested to him that his evidence about the hip flask was, *“a bare-faced lie”;*
- nn. Was then shown two clips from the night showing Mr. Apter giving speeches. *Per Mr. Buhagiar, “In [my] opinion, [he] came across as having a fair amount of alcohol”;*
- oo. Had it put to him that Mr. Apter was drinking water that night;
- pp. Had it suggested to him that those passages in his witness statement were *“spiteful”;* *per Mr. Buhagiar,*
“I was asked to give a statement on the things that I heard. I had no reason to be spiteful – I would have raised it straightaway afterwards... [I] put a plan in place for the next bravery awards to get the best of my team and also to help protect the organisation and the Chair’s integrity. I had a good working relationship with [Mr. Apter]”
- qq. Had it put to him that Mr. Apter repeatedly challenged him on his management style; Mr. Apter said Mr. Buhagiar needed to take responsibility for issues in the Communications Team. *Per Mr. Buhagiar, “[Mr. Apter] was very demanding”;*
- rr. Explained that he did not include those passages in his statement out of spite; *per Mr. Buhagiar,*
“I am not claiming that he was having a large amount of alcohol. My preference would be not to give a statement at all and not be involved. I am telling you what I heard and saw. I cannot change how people behaved or acted in the past but I am not going to lie”
- 104. In re-examination (commencing 11:44), Mr. Buhagiar:
 - a. Was asked why the situation after Mr. Apter made the alleged comment was ‘awkward’ – he said he wanted to bring the situation to an end and retire to the bar;
 - b. Was asked where his notepad was;
 - c. Confirmed that Mr. Apter appeared to refer to the year of the 2020 Bravery Awards, in one of the videos, as the year ‘2000’;
 - d. Confirmed that Mr. Apter and Mr. Donald were present with each other, stood facing each other (with Ms. Vale behind them) when the comment was made at the Roads Policing Event in 2020.
- 105. The Panel asked questions (see sub-section II.C.2.c, above). Mr. Buhagiar:
 - a. Was asked if he was sure that Ms. Vale was there at the Roads Policing Conference (**Charge Two**) and was taken to an email (paragraph 91, above), seeking to suggest she was not; *per Mr. Buhagiar, “There are a lot of people who didn’t want to talk about [the incident there]”;*

- b. When asked whether he was clear Ms. Vale was there; *per* Mr. Buhagiar, “...*I remember that she was in the room*”.
- 106. There were then a few more questions from each counsel (starting 12:03); what came from that was as follows; *per* Mr. Buhagiar:
 - a. Ms. Blekkenhorst was there but “*in and out... [I was] focused on what [Mr. Apter] and [Mr. Donald] were doing, [there were] lots of questions[he] needed them to answer*”; he was “*very hazy*” because of the number of conversations he had that night;
 - b. Said he was 100% sure that Ms. Vale was there, “*In my mind I remember her being there and her face*”;
 - c. Stated that the people who he said were present in his statement were there;
 - d. Was asked by Ms. White why people don’t want to get involved; *per* Mr. Buhagiar, “*When [Mr. Apter] was suspended, people were in tears saying ‘I don’t want to be involved in this’ - it’s not a nice position to be in... I know the defence have to ask certain questions but [you] understand why people don’t want to be involved*”.

(3) Post-Evidence – Recall Mr. Buhagiar as a Witness?

- 107. Mr. Buhagiar’s notebook was then produced by the AA; that contained the following entry:

“Manager’s meeting... 30/1/20... [various matters set out]... Team meeting – L O’H – JS concerned by JA comments... MB will raise with MK... check on team... Any issues raise and we’ll offer support... TB [illegible]... ‘I’d love to comfort her in my hotel room’ JA... L O’H – Lots of people talking about it... MB has meeting with MK – raise it... Private meeting with JS + SB afterwards”.
- 108. A further statement was taken from Mr. Buhagiar; that was dated 30.09.24 and it was handed to us looseleaf.
- 109. There, Mr. Buhagiar,
 - a. Explained that he did not tell the IOPC about this notebook – he must have forgotten and had only been asked by them whether he heard the comment and not what actions he took. The IOPC did not, in terms, ask him for the notebook;
 - b. Explained that he is ‘MB’; Laura O’Hara is ‘L O-H’, Theo Boyce is ‘TB’, Jamie Simpson is ‘JS’, Makund Krishna is ‘MK’, Steve Bax is ‘SB’, and Mr. Apter is ‘JA’;
 - c. Mr. Bax was present – Mr. Buhagiar’s belief for that is the fact that he used their initials at the end of the page meaning he was “*...reminding [himself] to speak with them privately after the teams meeting as in my notes we discussed the alleged comment made by [Mr. Apter]*”;
 - d. Explained, “*The comment was discussed and referred to as ‘the comment’ as we did not want to openly mention it in an open office*”;
 - e. The part, above, that was illegible (paragraph 107, above) actually read “*to oversee*”;
 - f. Said,

“During the discussion above I then wrote down ‘I’d like to comfort her in my hotel room’ JA. I did this as I did not want to forget the comment; I wanted to show that I was making a record of concerns and to show that I was doing something about it in the meeting and

taking it seriously. I did say that I heard the comment as well, but never said it out loud in the meeting. The comment itself was not said out loud as people were around and those who had worked with [Ms. Harper] at events so it was not appropriate to say it and for everyone to hear”

- g. Said,
“I have confirmed that JS is Jamie Simpson and SB is Steve Bax. This was just a note [the bit about private meeting, above] to remind to have a private meeting with them but this meeting did not take place. I think we did discuss this in other meetings but not privately”.
 - h. Provided some notes of other meetings to assist us in seeing his general note-taking style.
110. The Panel read the above. It was both parties’ positions that Mr. Buhagiar need not be recalled – the Panel agreed.

d) Detective Constable Esra Phillipson-Masters

(1) Written Evidence

111. In her statement (which is otherwise set out elsewhere at sub-sections II.C.2.f and II.E.2.h, above and below), DC Phillipson-Masters:
- a. Explains that, on 15.09.23, a colleague phoned Ms. Harper. Ms. Harper stated to her colleague that the words attributed to Mr. Apter were “...*really inappropriate and wrong*” (page 712);
 - b. Sets out that Ms. Harper had said, to her colleague, that “...*she [i.e. Ms. Harper] was surprised by [what Mr. Apter had allegedly said] as [Mr. Apter] had only ever been professional and kind to [Ms. Harper] on the handful of occasions she had met him*” (page 712);
 - c. Explains her efforts to take a statement from Ms. Harper; the latter ultimately stated that “...*I have decided that I won’t be submitting a statement*” (page 712);
 - d. Sets out in a phone call on 02.10.23, the following was discussed (page 712),
“...[Ms. Harper said, in terms] that what was said was highly inappropriate from someone in that position. [Ms. Harper] also said that she was [‘]disappointed[‘] but in all honesty [the alleged incident] had not affected her. She did have concerns over the media but I [i.e. DC Phillipson-Masters] said that names can be anonymised. [Ms. Harper] said that this was not her kind of fight”

(2) Oral Evidence

112. In examination-in-chief (which commenced at a time not recorded on 26.09.24) (otherwise set out at sub-section II.E.2.h, below), DC Phillipson-Masters:
- a. Confirmed she did not investigate any aspect of the case; and
 - b. Confirmed that her primary role was to assist in taking the case to a final hearing and to assist the defence with disclosure.
113. In cross-examination (which commenced at 16:36) (otherwise set out at sub-section II.E.2.h, below), DC Phillipson-Masters:

- a. Confirmed that she liaised with Ms. Styles to prepare her witness statement earlier this year;
- b. Confirmed that she requested the telephone note made by IOPC Investigator van Brienan in April 2024.

e) John Apter

(1) Written Evidence

- 114. There is a response to caution document dated 23.05.22; it commences at page 164.
- 115. There, Mr. Apter:
 - a. Said he had no idea who was in the ‘huddle’ referred to by Mr. Buhagiar (page 165);
 - b. Believed there was discussion of taking sufficient steps to make Ms. Harper feel welcome and comfortable at the conference;
 - c. Said he thinks he said, “*she will need looking after*” or “*we need to make sure she gets all the support she needs*”;
 - d. Made no reference to “*comfort her in my hotel room*”; he said the allegation was “*disgustingly offensive*”;
 - e. He generally denied that allegation or making any kind of comment consistent with it (page 165).
- 116. In his Regulation 31 statement (otherwise set out at sub-sections II.C.2.g and II.E.2.i, above and below), Mr. Apter:
 - a. Indicated the steps he took to prepare for the event to ensure Ms. Harper had sufficient support (page eight);
 - b. Could not recall who else was present when Ms. Harper was discussed on 27.01.20 (page eight);
 - c. Denied that he made either variant of the comments attributed to him (pages seven and eight).

(2) Oral Evidence

- 117. The rest of Mr. Apter’s examination-in-chief is at sub-sections II.C.2.g and II.E.2.i, above and below. So far as is relevant to this allegation, Mr. Apter:
 - a. Explained he had attended PC Harper’s funeral year; he believed this was in October;
 - b. Set out, “*I was very concerned that our attempt to do something positive could re-traumatise her or cause her some concern*”;
 - c. Said that he phoned the Chair of the Thames Valley Police Federation, Mr. O’Leary, and the (then) Chief Constable of Thames Valley Police, Chief Constable Campbell to make appropriate arrangements to ensue Ms. Harper was cared for at the event;
 - d. Explained that the word “*huddle*” was a word used by the Communications Team; he indicated he was there with Mr. Donald helping to set the event up and been present at the group huddle;
 - e. Recalled talking about the awards ceremony and the support that would be put in place for Ms. Harper. Mr. Apter believed the main person that would assist Ms. Harper was Clare Blekkenhorst ;

- f. Was asked who was present when he discussed her on 27.01.20. He said that he had not received notice of this allegation until 2022 and he could not recall at that stage who was present at the meeting. He recalled Mr. Buhagiar, Mr. Simpson, and Mr. Bax were there. He said he believed that Ms. Vale was there, *"I am not sure [Ms. Vale] was therefore the whole event [or] there for part of it"*. Mr. Apter thought Metin Enver was there and someone called Melonie Davies;
 - g. Indicated that others, including Mr. Bax, Ms. Blekkenhorst, and Mr. Simpson were there at the event generally;
 - h. Went on to say that *"the whole group"* was engaged in the huddle discussion. *"When I came to [Ms. Harper] it was a big deal"*; per Mr. Apter, there were no *"breakaway"* groups at this stage;
 - i. Had both permutations of the words attributed to him put to him; per Mr. Apter, *"I didn't say anything in a sexually inappropriate.... Certainly not anything about a hotel room – absolutely not, absolutely not"*;
 - j. Said it was *"not inconceivable"* he said something about looking after her at the table but he denied any sexual element to that; per Mr. Apter, *"...all of this is deeply upsetting. What she has been through and my concern... to have this allegation is just so deeply offensive. All of these allegations are offensive, but his one – and the impact of such an allegation... on her and her family – I can only imagine. At no time did I say anything that could have been interpreted as something sexual"*
 - k. Explained that because of the delay in the referral of this allegation, he carried on working with Ms. Harper to support her campaign in favour of Harper's Law – later, when the allegation emerged, he was unable to speak to her and noted that that *"separation became painful"*;
 - l. Said that it would be *"fanciful"* for him to be drunk at the October 2021 bravery award in front of so many senior figures in the world of policing;
 - m. Said Mr. Buhagiar's suggestion he was drinking from a hip flask was *"ludicrous"*; per Mr. Apter, that was a *"complete lie"*;
 - n. Was asked whether he was slurring his words in the video from the October 2021 ceremony. He said that he had been working from 06:00-06:30 that morning, he had been to Downing Street, that it had been a *"long day"* and that it was an entirely unplanned interview – the room was also *"incredibly hot... I was ill-prepared to do a piece to camera"*;
 - o. Said that he had only drunk water at that event save for when he sipped some wine as he took part in the loyal toast *"out of respect"*;
 - p. Reiterated that he would not have got drunk at an event were there were large numbers of Chief Constables, the Director-General of the IOPC, the Home Secretary, etc.;
118. The rest of Mr. Apter's examination-in-chief is at sub-sections II.C.2.g and II.E.2.i, above and below. So far as is relevant to this allegation, in cross-examination, Mr. Apter:
- a. Indicated he recalled the preparations for the Roads Policing Event;
 - b. Recalled that various members of the group travelled up on the 27.01.20;
 - c. Agreed there were discussions about Ms. Harper and that all of the people there were checking that she was to be appropriately 'looked after';
 - d. Said he was aware that there would have been *"little groups of people dealing with their own individual issues. As I attended, the group that mattered – the communications team – were altogether..."*. The group was

- Mr. Buhagiar, Ms. Blekkenhorst, Mr. Simpson, Mr. Enver, Ms. Vale, Mr. Bax, and Ms. Davies (although he could not remember if the latter was physical or remote);
- e. Denied making the 'hotel room' variant of what he was supposed to have said - "100%";
 - f. Had page 165 put to him where he said he did not know, in terms, who was in the huddle;
 - g. Said he thinks he said, "*She will need looking after*" but that that was said in a wholly innocent way;
 - h. Said the allegation is a "*Disgusting allegation which is deeply offensive*";
 - i. Had it put to him that perhaps he had said the 'hotel' variant in an inadvised way. *Per* Mr. Apter, "*I would never have said such a thing with colleagues or in private. I cannot understand why his recollection is of that*";
 - j. Had it put to him that it was an example of Mr. Apter saying one thing in public and another thing in private;
 - k. Said, when it was put to him why so many different people had made allegations against him, that Mr. Buhagiar was a "*failing manager who had been challenged*", that Mr. Buhagiar had been "*challenged*" by Mr. Apter. *Per* Mr. Apter, "*I can only imagine*" Mr. Buhagiar's motivations;
 - l. Denied that he "*displayed a particular attitude towards women*" during his career; *per* Mr. Apter, "*People who know me would demonstrate that I am not the person who is being vilified by the IOPC and Hampshire PSD*".
119. The Panel asked a question at 10:45 on 02.10.24. Mr. Apter was "*convinced*" Ms. Vale was there and had assisted in the preparation for the 2020 event.
120. In re-examination (which commenced at 10:50 on 02.10.24), Mr. Apter:
- a. Described that there was "*building frustration*" that "*critical [communications] opportunities were getting missed. Things were being put out that were not grammatically correct. I would repeatedly challenge... [Mr. Buhagiar's] fall-back position was to blame the team*";
 - b. Explained that members of staff were approaching Mr. Apter about Mr. Buhagiar, "*[They were] all coming to me raising complaints and concerns*" – he said Mr. Simpson was one of them;
 - c. Explained that Mr. Buhagiar was the deputy in post first and then after six to eight months took the leadership post for communications;
 - d. Set out that he did not promote Mr. Buhagiar; he was "*...a good communications officer but a clumsy and a poor manager*";
 - e. Explained that he thought Mr. Buhagiar's communications style was "*too corporate*" and that it was his view that Mr. Buhagiar thought of Mr. Apter, "*... 'I'm the expert, you're just a copper, what do you know?'*".
121. There were further questions from the Panel (time not recorded). Mr. Apter confirmed that he did not promote Mr. Buhagiar but that the National Secretary of the Federation did.

f) Steve Bax

(1) Written Evidence

122. Mr. Bax gave a statement dated 14.08.24; it is in Mr. Apter's bundle and starts at page 24.

123. There, Mr. Bax:
 - a. Confirmed that he attended the 2020 Roads Policing Conference;
 - b. Said (page 24),
“I cannot recall [Mr. Apter] at any time making any inappropriate or vulgar comment about [Ms. Harper]. We all knew the tragedy she was dealing with, and the sensitivities around that. It would have made a very strong impression on me if I had heard something inappropriate being said by anybody including [Mr. Apter]. He seemed particularly to be supportive of [Ms. Harper] and keen to show the support of the police family to her, and her family, which is what I would have expected”;
 - c. Set out his high opinion of Mr. Apter and his general professionalism.
124. Mr. Bax gave a further statement dated 30.09.24; it was a looseleaf statement handed to the Panel during the final hearing.
125. There, Mr. Bax:
 - a. Explained,
“I maintain that I never heard [Mr. Apter] make any inappropriate or vulgar comment about [Ms. Harper] either at the preparation for the Roads Policing Conference, during the conference[,] or after. [/] I have been asked whether I had a private meeting with [Mr. Simpson] and [Mr. Buhagiar]... in the days or weeks after the Roads Policing Conference. I have no recollection of a specific meeting.... Formally, or informally, where this matter was raised”
 - b. Set out his recollection that, *“... I cannot recall any such [communications team] meeting where an allegation was raised about [Mr. Apter] speaking inappropriately about [Ms. Harper]”*

(2) Oral Evidence

126. Until this point in the final hearing, there had been no difficulty with the technology being used for each of the witnesses who gave evidence via video link. Extensive directions were given, borne of the Chair’s bitter experience of live link evidence in other final hearings, before this hearing.
127. Mr. Bax’s evidence was affected by a very poor internet connection within the hearing room.
128. The link repeatedly dropped and Mr. Bax had to be re-connected.
129. The Panel stopped Mr. Bax giving evidence as soon as it became clear that he could not follow what was being asked of him because of the quality of the connection.
130. The link was smooth and operational for bursts of time and then stopped.
131. We were satisfied, ultimately, that – whilst not ideal – via multiple attempts and the perseverance of all concerned, Mr. Bax’s evidence was fairly heard. It was heard across multiple chunks depending on the strength of the connection.
132. Mr. Bax’s examination-in-chief commenced at 11:50 on 02.10.24; Mr. Bax:
 - a. Said that his memory of the Roads Policing Event was *“hazy... it’s four years and more”;*
 - b. Said, *“I do have a memory – think this one [was] where I arrived later in the evening. Colleagues were sitting down to have dinner. I don’t think [I was] there for some of the earlier set up”;*

- c. Said, “*I don’t remember specific conversations about [Ms. Harper]...Had something been said about [Ms. Harper], I would have registered... In all [his] dealings with [Mr. Apter], he was 100% supportive of her decision and very empathetic...* ”;
 - d. Said he was in meetings with Mr. Buhagiar and Mr. Simpson “*once a week*” and was asked whether he remember this coming up “*... my memory is hazy... [I] cannot remember being in a meeting where this was being discussed – [that is] not to say absolutely that it didn’t take place*”;
 - e. Indicated he was aware of what had been said in evidence earlier by Mr. Buhagiar at this final hearing through “*some of the coverage in the media*”.
133. Mr. Bax’s cross-examination commenced at 12:03 on 02.10.24; Mr. Bax:
- a. Re-confirmed the haziness of his recollection of the event itself and the meetings after it;
 - b. Explained that he had declined to provide a statement to the IOPC closer to the time because he was being asked whether he had evidence about whether he heard a comment and he did not.
134. The Panel asked questions (time not recorded). Mr. Bax was asked whether he overheard discussions in the main conference room rather than at the restaurant he described; his evidence was that he could not remember that specifically.
135. There were some further questions from the advocates and the Panel (12:13-12:20); the upshot of that was:
- a. He could not recall if Mr. Apter was there on 27.01.20;
 - b. He could not remember if Mr. Donald was there on 27.01.20;
 - c. He conceded it was “*possible*” that the comment recorded by Mr. Buhagiar had been raised at subsequent meetings;
 - d. Repeated that that would not have been in-keeping with his view of Mr. Apter’s character and Mr. Apter’s empathy for Ms. Harper.

g) *The Reverend Canon David Wilbraham*

(1) Written Evidence

136. At the outset of The Reverend Wilbraham’s evidence, the Panel acceded to Ms. Williamson’s submission that The Reverend Wilbraham be permitted to give short oral character evidence in support of Mr. Apter.
137. Reverend Wilbraham had already provided a detailed written character reference in support of Mr. Apter.
138. The Panel was of the view that, since witnesses for the AA had inevitably discussed the character of other witnesses during their evidence, fairness dictated that Mr. Apter – albeit briefly – be permitted to do the same.
139. Reverend Wilbraham gave an undated statement (it had been served in the case at a fairly early stage); it commences at page eleven of Mr. Apter’s bundle.
140. There, Reverend Wilbraham:
- a. Explains he has known Mr. Apter since 2007;
 - b. Explains that he had “*...minimal interaction...* ” with Mr. Apter during the evening in October 2021;
 - c. Explains, “*There was nothing about his behaviour during the evening, when I saw him intermittently or on stage undertaking his role as host, that*

gave me cause to think there as anything out of the ordinary and certainly that he was in any way intoxicated”;

- d. Sets out Mr. Apter was “*appropriately nervous*” about the event;
 - e. Set out that Mr. Apter, as a person, was someone who ‘hugged’ people;
 - f. Explains, at the end of the evening, he received a ‘man-hug’ from Mr. Apter and that “*I had absolutely no impression at all that [Mr. Apter] was anything but his normal self, relieved that the event had gone well, and certainly not at all affected by alcohol. [/] There was nothing about his demeanour, speech, or conduct which made me think that he had had too much to drink*”.
141. In a second statement, dated 11.09.24, handed to us in the course of the final hearing, Reverend Wilbraham clarified that the pertinent remarks above were about the October 2021 Bravery Awards event but that certain other remarks in his statement were, in fact, referring to the December 2021 Bravery Awards event with which we are not concerned.

(2) Oral Evidence

142. In examination-in-chief (commencing at 12:28), The Reverend Wilbraham:
- a. Gave powerful character evidence in support of Mr. Apter’s character;
 - b. Recounted multiple parts of Mr. Apter’s character that impressed him. *Per* Reverend Wilbraham, “*...I have found him to be a person of integrity and committed to what he did in policing and proud of his policing career. [He was] committed to the Federation. [He was] honest, truthful, compassionate*”;
 - c. Described Mr. Apter as a “*Hard worker who was not frightened to roll up [his] sleeves*”;
 - d. Described Mr. Apter as “*good fun*” and that he was a “*tactile character*” but never in an inappropriate way;
 - e. Explained that one of his functions at the October 2021 event was to say ‘Grace’;
 - f. Explained that he did not smell alcohol on Mr. Apter or “*anything like that*” that evening;
 - g. Set out, from previous experience of him, that Mr. Apter does not drink at such events.
143. In cross-examination (commencing at 12:37), The Reverend Wilbraham explained he was not sitting at the same table as Mr. Apter at the October 2021 event and that there were probably 200 people present.
144. The Panel asked questions (time not recorded). The Panel played the videos of Mr. Apter from the October 2021 event and asked him if, given his knowledge of Mr. Apter’s speaking style, Mr. Apter appeared to be drunk in those videos. Reverend Wilbraham’s evidence was that Mr. Apter appeared nervous about “*getting started*” and that it was “*at the end of a very long day*”. Reverend Wilbraham was asked if he had ever seen Mr. Apter drunk before and he answered in the negative.
145. In a further question (12:54) from Ms. Williamson, Reverend Wilbraham said that about two and a half hours had passed between the first and second videos of Mr. Apter speaking on the stage that the Panel watched with him.

3. Hearsay Evidence (Jill Vale)

146. Ms. Vale's unsigned and undated statement (containing the parts she struck out) was handed to us looseleaf. That explains:
- a. She had no awareness of the comment allegedly made to Ms. Styles;
 - b. She did not believe Mr. Apter had ever behaved in a way that might make her think he would treat men and women differently or being sexist/misogynistic;
 - c. She had no involvement in either the organisation or set up of the Roads Policing Event in 2020.

E. Charge Three – 08.12.21 (Female A)

1. Undisputed Evidence

a) Report of Investigator Katie Matthews

147. IOPC Investigator Matthews provides a report dated 01.06.22; it commences at page 224.
148. There, Ms. Matthews:
- a. Explains that she conducted a review of Mr. Apter's phone download (page 224);
 - b. Produces a picture of Female A, dated 08.12.21 at 20:39, which is at page 224. The picture is accurately described as follows (page 225),
"[Female A] is positioned to the left side of the camera frame and is wearing a beige coat... [PC] Lynch is positioned in the middle, and [Mr. Apter] is to the right in a blue shirt with a logo on it. [PC Lynch] has her left arm around [Mr. Apter]. All three individuals are smiling at the camera. Buildings are visible in the background"
 - c. Sets out an iMessage sent from Mr. Apter to his son dated 08.12.21, at 20:40, sending the above photograph (page 225);
 - d. Produces the image of a receipt dated 08.12.21, at 19:38, listing drinks to the value of £116.55 – one of those was 'DOC La Tordera' for £28.50. Ms. Matthews indicates that the latter is a brand of prosecco (page 226);
 - e. Sets out various other messages she found between Mr. Apter and PC Commons, PC Lynch, and Mr. Donald – none of those were relevant to the investigation.
149. The Cellebrite phone download report, referred to by Investigator Matthews, commences at page 520.

b) Police Sergeant Ramandeep Tanda

150. Police Sergeant Tanda gives a statement dated 03.02.22; it can be found at page 19 of the Supplementary bundle.
151. On 13.12.21, Female A asked to speak to Sergeant Tanda – Sergeant Tanda was Female A's line manager back up in Leicestershire. *Per* Sergeant Tanda, Female A told him, *"[Mr. Apter]... had been buying her drinks and making conversation with*

her... he had touched her with his hand on her bottom area... [Female A] became very emotional and upset when trying to explain this... ”

c) Detective Constable Elaine Hutton

152. DC Hutton gives a statement dated 18.12.21; it commences at Supplementary Bundle, page eleven.
153. There, DC Hutton:
 - a. Explains that, on 17.12.21, she spoke with Female A. Female A was agreeable to providing a video recorded interview (“VRI”). *Per DC Hutton, Female A said (page 12), “...she kept thinking about it all and that everything was going round in her head as she was trying to remember everything”;*
 - b. Sets out (page 12),
“[Female A] sounded a little apprehensive over the telephone. I formed the impression that she was willing to assist the investigation and willing to provide a VRI but felt concerned as she was a serving police officer with just a few years; service. She told me that only her sergeant and inspector were aware of this investigation at work... I told her that it was very brave of her to report what had happened and to have the courage to pursue and support the investigation. [Female A] thanked me for my comments”;
 - c. Explains (page 12), *“[Female A] was anxious to provide a VRI sooner rather than later”.*

d) Police Constable Nicol Rowell

154. PC Nicol Rowell of Leicestershire Police gave a statement on 30.12.21; it begins at page 402.
155. PC Rowell’s statement was agreed on 25.09.24 by the parties - the Chair accordingly reversed his earlier decision to ‘require’ her.
156. Ms. Rowell and Female A are housemates. Ms. Rowell exhibits an Instagram exchange she had with Female A on the day; it is at pages 406 and 407. There are seemingly two exchanges – one at 18:17 and one at 21:48 (Ms. Rowell says it was 21:34). The pertinent messages in the ‘first’ exchange read as follows, *“Mate john apter keeps trying it on with me x”*; there is then a response to which Female A responds, *“Awww thanks babes bit weird though and I’ve told [PC Commons] just in case xx”*. There is then seemingly a gap. The ‘second’ exchange is then in these terms (from Female A),
“I’ve told [PC Commons]and [PC Kingston] cause he wouldn’t leave me alone made me feel really uncomfortable and I felt like I had to so I wouldn’t lose my job but [PC Commons] has reassured me that hes being out of order xx”.
157. In her statement, PC Rowell goes on to say that, on 10.12.21 around 15:00, when Female A got home, they had a conversation. PC Rowell recalls that Female A became *“quite emotional”*. The pertinent parts of that conversation were that Female A told PC Rowell that Mr. Apter *“...kept saying things that made [Female A] feel uncomfortable [...] the main word she used was ‘dirty’; that [Mr. Apter] made [Female A] feel dirty”* (page 403). Female A repeated her concern to PC

- Rowell that, if she had not “*gone along*” with Mr. Apter’s behaviour then she would have lost her job.
158. PC. Rowell recounts that Female A said “*she was intoxicated on the night*” (page 403) and that, earlier in the evening, Mr. Apter had enquired if she was ‘single’ (page 403). Later, *per* Female A (via PC Rowell) when Female A was outside having a cigarette, Mr. Apter had said his son would like her (page 404).
 159. Again, earlier in the evening, *per* Female A (via PC Rowell), Mr. Apter had told her that she looked “*amazing*” and “*gorgeous*” and “*asked [Female A] to dance with her*”.
 160. *Per* PC Rowell, recounting her conversation with Female A, Mr. Apter had bought a ‘round’ of drinks when they got to a bar and, after asking for a glass of prosecco, Mr. Apter returned with a bottle and, on two separate occasions, reminded her to drink (page 404).
 161. *Per* PC Rowell, Female A was crying in this conversation (page 404).
 162. *Per* PC Rowell, Female A said she was sitting on a bench – outside – with PC Kingston opposite her. Mr. Apter walked over and asked her, in terms, to move up. In order to do that, Female A stood up; at that point, *per* PC Rowell (recounting Female A’s account), Mr. Apter, “*...groped her, by placing his hand on her bottom, and at the same time made a comment along the lines of ‘is that okay?’*. *[Female A] said she was surprised and stood up and walked off*”.
 163. On either 11 or 12.12.21, Female A reported the matter to her Sergeant (see paragraph 151 above).
 164. PC Rowell adds this, “*[Female A] hasn’t been herself since this incident, she hasn’t been sleeping or eating*” (page 405).

2. Witnesses

a) Che-Paul Donald

(1) Written Evidence

165. Mr. Donald addresses **Charge Three** in his various witness statements dated, respectively, 01.02.22, 19.04.22, and 09.05.22 (the latter is dated, in error, ‘2020’) (page 708). The rest of his written evidence is set out at sub-sections II.C.2.d and II.D.2. b, above.
166. In the first of those statements, which begins at page 295, Mr. Donald:
 - a. Noted that, at around 21:30 on 08.12.21, he received a phone call from PC Lynch (see paragraph 184(m), below) who “*expressed concerns*” in relation to Mr. Apter’s behaviour at a dinner involving Leicestershire officers (page 295). PC Lynch told him that the concerns related to “*his lack of sobriety*” and “*specific behaviour towards one particular officer [who Mr. Donald now knows to be Female A], where it was felt the behaviour was inappropriate in nature*”;
 - b. Said he was informed of aspects of Mr. Apter’s behaviour such that they made Female A, “*...feel uncomfortable and that interventions had to be made to remove [Mr. Apter] from being near her by other police officers within the group*”. Mr. Donald probed PC Lynch; *per* Mr. Donald, “*...I was*

- met with a description which could best be described as unwanted amorous attention, as I cannot recall the specific language used” (page 296).*
167. In the next statement, pushed to give further detail, Mr. Donald elaborated that, “...he [Mr. Apter] was whispering in [Female A’s] ear and had positioned himself quite close to her while at the bar and again at dinner” (page 302).
 168. Returning to the first statement, Mr. Donald then briefly spoke with PC Commons, who confirmed what PC Lynch had said (page 296).
 169. The final part of the last witness statement discusses his relationship with Mr. Apter (pages 310-311).

(2) Oral Evidence

170. The rest of Mr. Donald’s cross-examination can be found at paragraphs at sub-sections II.C.2.d and II.D.2. b, above; in relation to this allegation, Mr. Donald:
 - a. Said he was told, by PC Lynch, that Mr. Apter was showing “*undue amorous attention*” that was “*perhaps flirtation or being closer than deemed comfortable*”;
 - b. Confirmed that no-one else rang him that evening but that he did speak to both PC Lynch and PC Commons on that call;
 - c. Indicated, from what he was told, that he did not believe he immediately had to make his way to the restaurant;
 - d. Said that PC Commons said, to him, something similar to what PC Lynch had said;
 - e. Confirmed that he had never heard Mr. Apter make an inappropriate comment at work;
 - f. Indicated he would have had no difficulty challenging Mr. Apter if he felt Mr. Apter had said anything inappropriate.

b) Police Constable Jon Carter-Lang

(1) Written Evidence

171. PC Carter-Lang of Leicestershire Police gave a statement on 14.01.22; it begins at page 417.
172. There, PC Carter-Lang:
 - a. Explained that, on the journey between the Soho bar and The Ship (he cannot recall the name of the latter), Mr. Apter and Female A were walking together (page 418); *per* PC Carter-Lang, at that stage they were both “*mildly intoxicated*” but in control of themselves.
 - b. Said, at The Ship Mr. Apter bought a bottle of prosecco for himself and Female A to share (page 418). *Per* PC Carter-Lang, they were (page 418), “*...being flirtatious towards each other, but nothing that I felt was untoward. I did not get the impression that [Female A] was attracted to [Mr. Apter], it seemed to me that she was taking full advantage of the fact he was willing to buy her drinks*”.
 - c. Said that group went on to the restaurant. There, whilst waiting in the bar area, *per* PC Carter-Lang (page 418), “*...I saw that [Mr. Apter] came up behind [Female A], and whilst standing very closely behind her put both of his hands on her hips.*

[Female A] looked very uncomfortable with this, but I do not remember her trying to remove his hands. Shortly afterwards... we were seated [at our table]”;

- d. Said, when they first sat down, Mr. Apter went to the toilet. It was PC Carter-Lang’s impression that Female A positioned herself at the end of a bench in such a way as to give the impression that there was no space left for Mr. Apter on that side. *Per* PC Carter-Lang, Mr. Apter returned and asked the people on the bench to move along. *Per* PC Carter-Lang, Female A “*immediately looked uncomfortable*” and “*looked across to [him] and [PC Commons] with a ‘help me’ expression on her face...*” (page 418);
- e. Said Ms. Commons took Female A off to the toilet – Female A, on her return, then sat on the opposite side of the table to Mr. Apter. *Per* PC Carter-Lang, Mr. Apter became “*more withdrawn and quieter*” as the meal went on, PC Carter-Lang surmises, “[Mr. Apter] ... realised that he may have upset [Female A] by his actions” (page 419).

(2) Oral Evidence

- 173. At the outset of his oral evidence, at the advocates’ request, both PC Carter-Lang and Ms. Commons were invited into the hearing room together. They were shown certain CCTV and informed that they were simply being shown this together to avoid duplication in showing them the various clips separately. They watched the videos largely in silence and Ms. Commons then left, leaving PC Carter-Lang only as the witness in the hearing room.
- 174. PC Carter-Lang commenced his evidence-in-chief on 25.09.24 at 14:41. He adopted his written evidence.
- 175. PC Carter-Lang’s cross-examination commenced at 14:41; PC Carter-Lang:
 - a. Said that Mr. Apter and Female A were being really friendly with each other – they were both intoxicated;
 - b. Said he could not recall the specific details. He was asked if he could remember Female A’s demeanour; he said, “[she was] *very touchy feely, that is how I remember her being*”;
 - c. Could not give any more information as to why he believed she was being flirtatious – he did not believe it was untoward;
 - d. Was shown the CCTV of him at the bar of the restaurant;
 - e. Maintained, having seen the CCTV, that there was a part consistent with Mr. Apter placing his hand in contact with Female A’s hip – he could not recall how long he held it there ;
 - f. Identified the time reference 22:22:30;
 - g. Stated he had another memory of her being uncomfortable – it was put to him that Female A was smiling or laughing a few second before;
 - h. Accepted that he saw Female A place her hands on Mr. Apter’s chest on the video;
 - i. Said he could not remember Mr. Apter saying anything when he ‘flapped’ his hands for Female A and others to move down the far side of the table visible on the CCTV;
 - j. Said that the background noise in the restaurant was loud.
- 176. PC Carter-Lang was re-examined at 14:54; PC Carter-Lang. He was asked if he could recognise what he described in his statement in the final paragraph of page

418 (Female A looking uncomfortable). He indicated that the time he was taken to 22:32:26, was the “*best guesstimate*” of when that happened.

177. The Panel asked questions around 15:01; PC Carter-Lang:
- a. Accepted he had drunk alcohol that evening;
 - b. Was asked if he was drunk at the restaurant; he said he was “*slightly tipsy*”;
 - c. Said that, because of a heart condition, he could not have drunk more than three pints.

c) Michelle Commons

(1) Written Evidence

178. Michelle Commons gave a statement on 25.01.22; it begins at page 408.

179. There, Ms. Commons:

- a. Explains that she is married to PC Commons. Ms. Commons explains that Female A was in, “*...her mid-20s. I would describe her as very pretty... she was wearing a dress and quite high stilettos*” (page 409);
- b. That the evening began with a reception at the Park Plaza Hotel, London, and then proceeded to a bar in Soho, London;
- c. Describes how, at the Soho (Archer Street) venue, she got onto a table and danced with Mr. Apter (page 410);
- d. Recalled pouring Female A a “*large glass of Rose wine*” (Ms. Commons does not know whether Female A drank it) at some point before that and that, at the hotel, Female A had had a glass of prosecco (pages 409 and 410);
- e. Said she was unable to get into any bars - the group ended up at a public house called The Ship (page 411);
- f. Recalled Mr. Apter buying a bottle of prosecco but does not indicate a belief that that bottle was specifically intended for Female A alone (page 411).
- g. Said, after The Ship, *per* Ms. Commons, the group went to an Italian restaurant. There, Ms. Commons was stood around waiting for the group’s table to become available; her attention was drawn to the bar area. Her statement says this (page 412),
“*...[I] saw [Mr. Apter] standing at the bar directly behind [Female A] in a stance I thought was inappropriate. [Mr. Apter] had both his hands on the bar, palms down, leaning on the bar, and his hands were either side of [Female A]. [Female A] was in between [Mr. Apter’s] hands and her body was directly touching the bar. Their bodies were both facing in the direction of the bar. [Mr. Apter’s] head was to one side of [Female A], and it looked like he may have been talking to the side of [Female A], but I was too far away to hear whether they were talking*”
- h. Indicated, in terms, concern to the person she was sat next to – PC Lynch – who then phoned someone [Mr. Donald] (page 412);
- i. Became aware that PC Commons and Female A had spoken; on their return, Mr. Apter was not present and had gone to the toilet. PC Commons told the group, in terms, that if they all stayed where they were then Female

- A could sit at one end of the table and Mr. Apter, when he returned, would only be able to sit at the opposite end of the table (page 413);
- j. Said, on Mr. Apter's return, he told people to "*shove up*"; he then sat next to Female A (page 413);
 - k. Said that another opportunity arose to reconfigure the seating positions when PC Commons and Female A went out for a cigarette; *per* Ms. Commons, when the two of them left, she told Mr. Apter to "*shove up*" so that Mr. Apter and her were sat next to each other (page 413). Ms. Commons and Mr. Apter then had a conversation as they ate (page 413);
 - l. Said that she became aware that Mr. Apter had to leave because he had to be up early for the following day; Ms. Commons got Female A to wait until Mr. Apter had left before she went outside again to 'vape' (page 414);
 - m. Said Mr. Apter was "*very drunk*" and "*slurring his words*" when he was talking to her (page 414). *Per* Ms. Commons, Female A was '5-6/10' drunk at the restaurant.

(2) Oral Evidence

- 180. Michelle Commons' examination-in-chief commenced on 25.09.24 at 15:07; Ms. Commons adopted her written statement and said, immediately, that the CCTV she had been shown was "*not what I remember*".
- 181. Her cross-examination commenced at 15:08; Ms. Commons:
 - a. Said, elaborating further about the CCTV, that she was stood further back than she could remember;
 - b. She had said in her statement she was stood next to PC Lynch but she "*wasn't at all*";
 - c. She said she "*must have been mistaken*" about saying she saw Mr. Apter with his hands on either side of Female A – *per* Ms. Commons, from the CCTV, she was stood with Ms. Uzupa-Jones, not PC Lynch;
 - d. Said Mr. Apter, in the CCTV, was "*Certainly not in the stance I thought he was stood in*";
 - e. Said she did not regard the actions she saw of Mr. Apter in the CCTV as "*inappropriate – [the group was having] a lovely evening*";
 - f. Said that she chatted with others in the group about what she thought she had been told about what happened;
 - g. Said, when she was down the stairs, she was told that Female A felt uncomfortable and was moving;
 - h. Said she then went to go – they got taxis and there was no further discussion about it;
- 182. In re-examination (which commenced at 15:16), Ms. Commons:
 - a. Said that she found seeing herself in the CCTV embarrassing because she was hugging everyone on the footage;
 - b. Rehearsed three aspects of her written evidence that she had modified during cross-examination – she agreed with the summaries of those modifications;
 - c. Distinguished between her recollection of Mr. Apter's conduct – which she thought was inappropriate – and what she had seen on the CCTV – which she did not believe was inappropriate. *Per* Ms. Commons, "*I hug everyone. I am tactical. That is what I am like. I don't believe that was inappropriate at all*".

d) Police Constable Tiffany Lynch

(1) **Written Evidence**

183. PC Tiffany Lynch of Leicestershire Police gave a statement on 07.01.22; it begins at page 467.
184. There, PC Lynch:
- a. Says she saw Mr. Apter dancing with Ms. Commons, Female A, and PC Kingston on a “*raised box*” at the bar in Soho (page 468);
 - b. States, later, on the journey between the bar and The Ship, that she commented to Mr. Apter that it appeared to her a “*huge weight*” (page 468) had been lifted from his shoulders since announcing his retirement as Chair. *Per* PC Lynch, Mr. Apter said that “*...he felt well... and he was out to enjoy the night and the awards ceremony the following day*” (page 468);
 - c. Described a discussion between PC Lynch and Mr. Apter about who would buy the first ‘round’ at The Ship (page 468). PC Lynch describes that Mr. Apter returned with a bottle of prosecco and placed it on the table; there were two glasses - one was taken by Female A and Mr. Apter had the other (page 468);
 - d. Said Mr. Apter “*...appeared to focus a lot of his attention in the conversation with [Female A]*” (page 468);
 - e. Said, at some stage at The Ship, Female A and PC Lynch went out together to have a cigarette. There was a discussion between them about Female A’s career as a relatively new officer. Mr. Apter joined them both outside. The careers discussion continued (page 469). *Per* PC Lynch, Mr. Apter asked Female A if she was “*married*” and then, when PC Lynch believed Female A’s answer was in the negative, Mr. Apter said that he was “*single*” (page 469);
 - f. Said a ‘selfie’ photograph was then taken with her, Mr. Apter, and Female A together. That can be seen at page 549;
 - g. Stated the group then left The Ship and made for the restaurant (page 469);
 - h. Said that, at the restaurant, Ms. Commons turned to PC Lynch and said, *per* PC Lynch, “*This is getting too much*”. Ms. Commons moved out of PC Lynch’s line of sight allowing the latter to see the following (*per* Ms. Lynch at pages 469 and 470):
“*[Female A] had... a menu in her hands positioned to the right side of her... [Mr. Apter] was standing directly behind her... I would say there was no distance between them, with [Mr. Apter] looking over her right shoulder. The left side of his face was very close to the right side of hers... [what PC Lynch saw] made me feel uncomfortable... I felt his positioning behind her looked far too close for two people who were not in a relationship or with no basis of a close friendship*”.
 - i. Said PC Commons then took Female A by her right hand and escorted her away (page 470);
 - j. Said, on her return, Female A sat with Ms. Commons and PC Commons;
 - k. Said PC Commons asked Female A, *per* PC Lynch, if she – Female A – “*was ok[?]*”;

- l. Indicated that Mr. Apter returned to the table and asked everyone to move to make space for him on the bench; he then sat next to Female A (page 470);
- m. Stated that PC Lynch decided to call Mr. Donald to try to get him to come and “get” Mr. Apter (page 470); she relayed her belief that Mr. Apter was “*paying far too much attention*” to Female A, that it was making people at the event “*uncomfortable*”; she relayed “*...what [she] had seen at the restaurant...*” (page 470);
- n. Said PC Commons briefly spoke to Mr. Donald too (page 471);
- o. Said (page 471),
“At no time did [Female A] appear upset or concerned in any way... she] carried on with the conversations at the table in the same happy manner that she had when I had held conversation with her earlier in the evening”.
- p. Said Mr. Apter appeared less engaged through the meal part of the dinner and was not speaking much (page 471). By that stage, *per* PC Lynch, PC Commons had moved Female A to another part of the table (page 471);
- q. Stated, at the end of the following evening (i.e. 09.12.21) – after the awards ceremony – Female A hugged her and said, “*Thank you for what you did*”; PC Lynch asked if she was OK - Female A nodded (page 471).

(2) Oral Evidence

185. PC Lynch’s evidence-in-chief began at 10:34 on 26.09.24. She adopted her written statement.
186. In cross-examination, which began at 10:34; PC Lynch:
 - a. Explained that her and Mr. Apter’s background was that they were both Chairs of local Federations at a similar time – she was the Chair of Leicestershire and Mr. Apter was the Chair of Hampshire;
 - b. Confirmed, from the CCTV, she was having a long conversation with Mr. Apter at The Ship; *per* PC Lynch, she had been closer to home when they started doing Federation work but had recently not been as close;
 - c. Had it put to her that there was some difficulty between her and Mr. Apter on account of his belief that she was undermining him by raising matters with Mr. Donald rather than Mr. Apter - she denied that;
 - d. Had it put to her that Mr. Apter said to her that they were not as close as they used to be;
 - e. Confirmed that Mr. Apter bought a round of drinks at The Ship and got himself a glass for the prosecco alongside Female A;
 - f. Clarified that she was in the bar of the restaurant for some time talking to others before the comment was made by Ms. Commons;
 - g. Had the video at 22:17-22:22 played to her. The video was played a couple of times;
 - h. Stated that Mr. Apter was leaning over her at 22:16 and the conversation between PC Lynch and Ms. Commons was at approximately 22:22 – PC Lynch conceded that it followed from the CCTV that her “*sequencing was wrong*” – rather than Ms. Commons saying something as soon as she entered, it was after the incident of touching at the bar that PC Lynch described that that happened;

- i. Identified, from the CCTV at 22:32:20, that she went off to try to phone Mr. Donald. Mr. Donald later called her back and that is how they spoke. PC Lynch re-emerges on the footage at 22:39;
 - j. Could not remember when she next spoke to Mr. Donald with PC Commons;
 - k. PC Lynch left before Mr. Apter left so she could get the last train back to Leatherhead;
187. PC Lynch was re-examined at 11:32; PC Lynch:
- a. She could not recall anyone else drinking prosecco at The Ship;
 - b. Was shown 22:17 of the video – *per* PC Lynch, a menu was passed from Female A to Ms. Uzupa-Jones;
 - c. Was shown 22:19 of the video – *per* PC Lynch, she was speaking to the Leicestershire bravery award nominee;
 - d. Was shown 22:21; she accepted that she was “*further than a few meters*” from Mr. Apter and Female A contrary to her statement;
 - e. Was read the relevant passage of her statement again about the positioning of Female A and Mr. Apter at the bar; she was taken to 22:21:59. She was asked about the exchange of words between her and Ms. Commons. At 22:22:57 it was said that the two of them ‘locked eyes’;
 - f. Explained that her call to Mr. Donald was necessary because she wanted to see if he could come and get Mr. Apter; *per* PC Lynch, from her conversation, Mr. Apter “*did not seem right – he didn’t seem himself*”.
188. PC Lynch was briefly cross-examined again (starting at 11:44). PC Lynch said that Mr. Apter mentioned alcohol and medication had not mixed well at the following day’s bravery awards; *per* PC Lynch, Mr. Apter could not recall the ‘selfie’ having been taken.
189. The Panel asked questions at 11:48; PC Lynch said that she had drunk five Proseccos at Archer Street and denied, at the restaurant, that she was drunk. She said she was not tipsy, but “*merry*”.

e) Lauren Uzupa-Jones

(1) Written Evidence

190. Lauren Uzupa-Jones gave a VRI on 17.01.22; the transcript starts at page 420. There is then a statement dated 06.11.22, beginning at page 458.
191. In those, Ms. Uzupa-Jones:
- a. Confirmed she is married to PC Owain Jones of Leicestershire Police; Mr. Jones was nominated to receive an award at the Bravery Awards 2021, alongside PC Kingston;
 - b. Said she is a teacher of children with special educational needs (page 448);
 - c. Said, at The Ship, she returned from the toilet to find that Mr. Apter was buying a ‘round’ of drinks for the group. She recalls that Female A asked for “*a prosecco*” and that Mr. Apter returned with a bottle. *Per* Ms. Uzupa-Jones, Mr. Apter “*...talked to all of us but he was always bringing it back to [Female A]...*” (page 423); by that, Ms. Uzupa-Jones later indicated, “*...[Mr. Apter] valued her... opinion the most out of all of us...*” (page 444). Ms. Uzupa-Jones states that Mr. Apter ‘topped up’ Female A’s glass two or three times (page 431);

- d. Said, on the journey between The Ship and the restaurant, Mr. Apter (page 424), *"...put his arm around [Female A] [...] [B]ut I don't know if it was part of 'cause of her heels or I... I just don't know it just... I wouldn't have wanted his arm around me like that"*. Ms. Uzupa-Jones references *"cobbled streets"* and that, perhaps, Mr. Apter's arm was there because Female A had potentially *"stumble[d]"* (page 435);
- e. Said, however, if that were so, *"...I wouldn't expect him to keep his hand there for a long time... it wasn't that long but it was just I don't know you know..."* (page 435). In her statement, she says Mr. Apter's hand was there *"a minute or two"* (page 462);
- f. Described the movement, *"...he... put his arm around her... like her lower lower back towards her waist... reaching around her... almost like to give [her] a hug but round his waist"* (page 435). Later, she says (page 450), *"...it was like an open palm like round so his arm was like round on her back and this hand on her hip sort of thing round her waist. Like almost like a hug like if you pull someone in for a hug and you like put your arm round them. It was almost like that but it was more like what I'd expect [Mr. Jones] to do to me as his wife rather than a random person that you'd met that night"*;
- g. Describes that, at the restaurant, Female A went to the toilet and Mr. Apter disappeared. On Mr. Apter's return, *per* Ms. Uzupa-Jones, Ms. Commons (page 425), *"...kind of like pushed [Mr. Apter] in to the... seats next to [Mr. Jones]. [Mr. Jones] ended up moving up one in front of me... [Female A] went and sat down the other end of the table with [PC Commons] and that was it... there was a bit of an atmosphere and by this point [Mr. Apter] was really drunk and it was, like we were all drinking and it wasn't like we were sober... I didn't see anything or hear anything and then when [Mr. Apter] left at the end of the night[,] [PC Commons] came sat she went [']argh that was awkward['] and so I knew then that something had happened..."*.
- h. Clarified that she did not see any *"physical contact"* between Mr. Apter and Female A or at least no contact she can remember (page 443). At the time, Ms. Uzupa-Jones surmised that *"something...[had] happened"* because Mr. Apter stopped *"going to"* Female A to talk to her either side of Female A's trip to the toilet (page 444);
- i. Recalled Female A indicating to her, in terms, that she thought she had had a good night (page 445); Ms. Uzupa-Jones set out, in her view, the unlikelihood of Female A confiding anything in her given they had only just met (page 445);
- j. Explained she did not recall any flirtatious conversation between Mr. Apter and Female A (pages 452 and 453);
- k. Said, in relation to Female A's level of intoxication, (page 453), *"I wouldn't say she was totally drunk... she was not sober... I wasn't worried that she didn't know what she was doing or she'd get lost or something... Nothing like that"*;
- l. Said, when Mr. Apter greeted her and her husband at the 2021 Bravery Awards, it was as if Mr. Apter had never met them before (page 449);

- m. Said that, at the 2021 Bravery Awards, Female A and PC Kingston did not clap a particular part of Mr. Apter's speech, seemingly where he said it was his last awards ceremony as Chair of the Police Federation (page 448).

(2) Oral Evidence

- 192. Ms. Uzupa-Jones commenced examination-in-chief on 26.09.24 at 11:52; there, she confirmed she was still a teacher and adopted her statement.
- 193. In cross-examination (which commenced at 11:54), Ms. Uzupa-Jones:
 - a. Had it put to her that Mr. Apter put his arm through Female A's arm so that they were 'linked' together whilst walking from The Ship to the restaurant; Ms. Uzupa-Jones said, "*I don't remember anything different other than [what I said in my] statement*";
 - b. Confirmed that she could remember what she put in her statement but, otherwise, she had "*...put [the matter] to the back of my mind*";
 - c. Had it put to her, therefore, that it was possible Mr. Apter's arm was 'linked' like that; *per* Ms. Uzupa-Jones, "*it could be [possible]*";
 - d. Indicated she could not recall the circumstances in which Mr. Apter initially came to come to sit at the table;
 - e. Said, at some stage, that Mr. Apter came to be sat next to her husband and Michelle Commons; *per* Ms. Uzupa-Jones, "*[that was the] first point [I] remember him sitting at the table*";
- 194. In re-examination (at 12:01), she was asked again about her evidence as to the journey between The Ship and the restaurant. She said she could not improve upon her statement – her memory was better in 2022.
- 195. The Panel asked no questions.

f) Police Constable Stephanie Kingston

(1) Written Evidence

- 196. PC Kingston of Leicestershire Police gave a VRI on 07.01.22; the transcript begins at page 473. She also gave statements dated 31.10.22 (starting at page 506) and 14.11.22 (starting at page 510).
- 197. In those, PC Kingston:
 - a. Explained that, at the function, "*...everyone was getting pretty drunk... we were all dancing around...*" (page 474);
 - b. Said the group she was part of then went to The Ship. When she came back in one occasion, she saw that "*...everyone was really drunk...*" (page 475); *per* PC Kingston, she could see at The Ship, that Female A was "*...getting more drunk...*" (page 487);
 - c. Said, after Female A had gone to the toilet for some time, Female A returned and PC Kingston heard Mr. Apter say, "*come and sit on my lap*" (page 475);
 - d. Said, when the group arrived at the restaurant, she saw Mr. Apter with his hand on Female A's bottom "*...rubbing his hand over...it...*" whilst the two of them were stood together at the bar (page 475);
 - e. Said that she and others had to "*wait at the side of the restaurant*"; it was stood there that she looked over and saw what she described above (page

- 507). Female A said that her view of Female A and Mr. Apter was “...initially... obstructed due to people being in the way. My view of [Mr. Apter] and [Female A] was then clear and unobstructed during the incident as people moved out of the way...” (page 507);
- f. Said Female A was “...moving her shoulders and ...trying to move, but there wasn’t really anywhere for us to move away....” (page 475). Per PC Kingston, “...[Female A] was on his left side... he’d sort of put his arm across and then down so sort of in like the middle area... sort of like across that sort of area” (page 489). Per PC Kingston, “...he was just sort of moving his hand... like round like a circular motion... I think I saw ...him squeeze at least once...” (page 490);
 - g. Said PC Commons had “noticed it” and led Female A away (pages 475 and 490);
 - h. Said she went out with PC Commons and spoke to Female A outside. Per PC Kingston, Female A did not want to go back into the restaurant (pages 476 and 494);
 - i. Said that Female A said, when speaking to PC Commons, “I don’t know why he’s doing it, I’ve not asked him to...” (page 507);
 - j. Said Female A repeated that comment (page 507); per PC Kingston, “She was unsure as to what to do next, she didn’t want to go back into the restaurant [and] have to say [‘]no[‘] to [Mr. Apter]”;
 - k. Said, on their return, per Ms. Kingston, Mr. Apter “pushed the whole row down” to sit next to Female A (page 476);
 - l. Said she saw Mr. Apter’s hand go under the table (page 476); per Ms. Kingston (page 476),
“It looks like it went... so I can’t say for sure but I know his hand went on [Female A] in some way of another but I couldn’t see for sure what he was doing but I could tell she was getting really uncomfortable... She kept sort of wriggling... and I heard her say to him [‘]can you not touch me like that[‘] or something along the line of [‘]can you not do that[‘]... I remember he just laughed and he didn’t take his hand off her... I think she said it once more maybe but I can’t be sure... she definitely said it that one time... and then I could tell she was starting to panic a bit more ‘cause she was a wriggling a bit more and starting to so I just sort of said to her across the table [‘]let’s go to the toilet[‘], just to get her out of the way”;
 - m. Said, in her statement, “I could see [Female A] wriggle and move forward slightly...” (page 508);
 - n. Stated (page 495),
“...I saw his hand go across the table so there was a bit of space between the two of them but his arm was sort of diagonal... so from where... his arm was sort of diagonal... so from where... his arm was positioned... I think I saw his, he put his arm behind her and then moved it sort of down, but I can’t say where it went after that point but when he put his arm behind her she sort of like moved her back sort of like that and sort of moved forward.... Then he moved his hand again but I don’t know what, I couldn’t see what he was doing after that”.
 - o. Later clarified she cannot remember precisely what Female A said at this point in response (page 496);

- p. Stated she took Female A down to the toilet. PC Commons appeared and indicated she had a plan to sit Female A somewhere else at the table (page 476);
- q. Said the meal continued and, at the end of it – after Mr. Apter had left - Female A went out with Ms. Kingston; she believes that Mr. Commons was there. *Per* Ms. Kingston (page 478),
“...[Female A] started crying ‘cause she felt like she’d done something wrong... she didn’t think that she’d led him... she told him not to touch her when we were in the restaurant... she said she felt a bit dirty because he’d touched her... She also said she felt a lot of pressure because of the type of event it was....”.
- r. Said, in her view, Female A “*went stiff*” when she saw Mr. Apter at 10 Downing Street the following day (page 478).
- s. Said, the day after on the way back up to Leicestershire, PC Kingston told Female A that she heard her telling Mr. Apter to get his hands off her and that she saw Mr. Apter laughing in response to that (page 479).
- t. Said, whilst at The Ship, she believes she saw Mr. Apter hugging Female A and the other lady who went out with her (page 489);
- u. Indicated she had a video of Mr. Apter and Female A dancing together (page 503);
- v. Confirmed that Mr. Apter and Female A were sat down, i.e. beside each other, at the point that Mr. Apter allegedly put his hand on Female A causing the latter to react as set out above (page 510).

(2) Oral Evidence

- 198. In examination-in-chief (which commenced at 12:31 on 26.09.24), PC Kingston adopted her statement.
- 199. In cross-examination (which commenced at 12:32), PC Kingston:
 - a. Confirmed she remembered Female A sitting on PC Commons’ lap at The Ship – she later said she could not remember when that happened;
 - b. Stated that the person who asked for Female A to sit on his lap at The Ship was Mr. Apter;
 - c. Was asked whether she might have been confused about that. *Per* PC Kingston, “*If that’s what I said in my statement, I am going to stick with that – it’s a few years ago so I cannot remember all the details*”;
 - d. Was asked whether she might have been confused as to the timing of when Mr. Apter allegedly asked Female A to sit on her lap. She said that, when Female A dismissed Mr. Apter’s request she – Female A – was not talking to PC Commons;
 - e. Was asked about where she was stood when she saw what she says she saw at the bar of the restaurant – she agreed with ‘two metres’;
 - f. Said she could not recall that name of the person she was stood next to – it was PC Carter-Lang;
 - g. Was asked whether the touching to Female A was something she could see clearly - she agreed;
 - h. Was shown the relevant CCTV all the way through; at 22:19:03, she said she “*believe[d]*” she saw the incident, albeit that there was “*different positioning*”. *Per* PC Kingston, when it happened, she “*made a face looking at Female A*”;

- i. Was taken to the part of her statement where she said that what she saw was about a “*minute*” in duration; *per* PC Kingston, “*I may have got my timings wrong there*”;
- j. Said that she could not say for certain, from watching the CCTV, when the touching happened;
- k. Was shown the CCTV all the way through again; at 22:22:15, she then said that, “*I think the point we stopped earlier is not the point. From my statement, maybe I got the positioning wrong... [we] shouldn’t focus on the point we stopped at earlier [but] this point*”;
- l. Had it put to her that she was talking to PC Carter-Lang at that part of the video. She said, “*...[we] shot a look [at each other] when we saw it happen – [we] didn’t say anything about that – [we were] talking about something else happening*”;
- m. Had it put to her that what she could see was Mr. Apter putting his hand on her hip rather than her bottom; *per* PC Kingston, “*It was her bottom*”. *Per* PC Kingston, “*I saw him squeeze with his left hand. You cannot squeeze a hip*”;
- n. Was asked further about her conversation with PC Carter-Lang; she agreed that – from the CCTV – she turned to PC Carter-Lang and was smiling. She agreed that she did not appear to be concerned or troubled. *Per* PC Kingston, “*In terms of facial expressions – my face could be saying something completely different to what I am feeling*”;
- o. Was taken back to 22:22:19; she was asked if Mr. Apter still had his hand on Female A’s bottom at this point – the answer was, “*...yes, but I cannot be entirely sure. It was three years ago*”;
- p. Was asked about how she could have said – in her statement – that his hand was there for a minute or so. *Per* PC Kingston, “*I might have got the timings wrong. I had had a few drinks by that point. My timings aren’t the best so probably wasn’t as long as a minute*”;
- q. Was asked about the part of her statement where she was talking about a rubbing circular motion – she was asked if that is happening in the footage. In terms, she agreed it was albeit was less clear about when – in the course of the touching – that happened;
- r. Was taken back to 22:22:34; she could not say if Mr. Apter was still touching Female A at this point;
- s. Had it put to her that there was physical contact but that Mr. Apter did not put his hand on her bottom or squeezing of her bottom; *per* PC Kingston, “*From my recollection of what I saw – I saw a hand on her bottom and I saw a squeeze and that is what I remember seeing. [On her] left hand onto her right buttock*”;
- t. Had it put to her, if she saw that, why she did not do anything. *Per* PC Kingston, “*[I am] not entirely sure if I’m being completely honest. [She had] not said anything about being uncomfortable until she walked off with [PC Commons that I realised] she was more uncomfortable that [she was] letting across*”. She went on to say, “*[I was] not entirely sure about [what I had] seen or entirely sure about whether she was uncomfortable*”;
- u. Was asked why she did not go over to Female A and check she was OK; *per* Female A,

“I wasn’t sure whether she was uncomfortable or not – she and Mr. Apter had been talking through the night – Female A [is] quite

- confident. [It was] only when [I] saw her with [PC] Commons that I realised she was uncomfortable”;*
- v. Explained that she initially thought Female A had gone out for a cigarette. *Per PC Kingston, she went out to check on Female A. Per PC Kingston, “Other than what is in the statement, [I] cannot remember what she said. I believe she was crying at one point – [she] felt uncomfortable”;*
 - w. Was asked if she could remember anything else of that conversation outside. *Per PC Kingston, “Other than saying we will sit together at the table to try to keep her away from him for the rest of the night... [I was just there] supporting her – [I] don’t remember much of the conversation”;*
 - x. Was asked about her evidence that Mr. Apter had placed his hand under the table. *Per PC Kingston, about five minutes had passed from coming in when Mr. Apter did that;*
 - y. Explained where Female A and Mr. Apter were positioned at the table;
 - z. Was asked whether she saw Mr. Apter make contact with Female A when he moved his hand; *per PC Kingston, “There was a table in the way”;*
 - aa. Described the movement: Mr. Apter stretched out across her, *“...potentially touching her knee – [I] saw it [i.e. the hand] move towards Female A”;*
 - bb. Was asked about when this was; PC Kingston said that she thought the menus were at the table – she didn’t know whether she started looking at them at that point;
 - cc. Was asked about her evidence that she saw Female A wriggle and move forwards slightly. PC Kingston demonstrated what she meant by that; she said – out loud – that it was a *“shuffle”*;
 - dd. Was asked about the words she attributed to Female A; she was asked whether she could remember whether Mr. Apter and Female A had been talking together before that. *Per PC Kingston, “I can’t remember – there might have been some talk”. She said, when asked about the precise words ‘can you not touch me’, that “[I] can’t remember those exact words – but [it was] something along those lines... That is the best of my knowledge of what was said – [it was] as close as I can remember [of what she said]”;*
 - ee. Had it put to her that that was not said. *Per PC Kingston, “[My] attention [was] drawn to what [was] going on. [I] remember her saying it at the time – I remember her telling [him] something along those lines”;*
 - ff. Was asked whether it was Female A or her who suggested they go to the bathroom together; her answer was *“Me”*; she went on to say that she *“...suggested that to [Female A] as [she, i.e. PC Kingston] could see [Female A] was uncomfortable”*;
 - gg. Was taken back to the CCTV. She said, at 22:31:08, that she was *“looking over to someone”*. At 22:32:22, she said she was *“looking around at this point... [I] was moving back and forth to try to get [PC Commons’] attention and trying to look at [Michelle Commons’] face as well”*. She went on to say, *“...I remember trying to get [PC Commons’] attention at that point [22:32:22] or the point it happened – I cannot give a clear point of when I saw it from watching the CCTV without a clear view of seeing his face... [she did that] when it happened – when Mr. Apter’s hand was moving”*;
200. In re-examination (which commenced at 13:25), PC Kingston:
- a. Was clear that, at The Ship, it was Mr. Apter – not PC Commons – whose request to sit on their lap Female A dismissed;

- b. Was shown 22:21:45-22:22:43 of the footage from the restaurant. She said that Mr. Apter's placing of his hand at the bar *"Definitely wasn't a minute – probably about half a minute, maybe less"*;
 - c. Was asked why she did not do anything if she thought she saw that at the bar; *per* PC Kingston, Female A is *"quite chatty and confident – [they] had been talking throughout the night"*;
 - d. She was asked about why, from her body language, she thought Female A looked uncomfortable. *Per* PC Kingston, *"Having known he for about four years – watching her body language change – I can see that she gets uncomfortable at the point that the action has taken place"*. She was asked if that was visible on the footage. She pin-pointed 22:22:13 – *"From that point, having known her for a quite a few years, her facial expressions change quite quick"*;
 - e. Was asked about Mr. Apter's action of 'moving people' down various seats at the table when he came back from the toilet. *Per* PC Kingston, *"I don't know why he did this, [there were] two or three empty seats"*;
 - f. Was asked about her evidence that five minutes elapsed between Female A coming in and PC Kingston/Female A going to the toilet together. She was played 22:31:17-22:33:56; PC Kingston's evidence was that 22:33:00 was when she asked Female A if she wanted to go to the toilet; her evidence was that maybe 30 seconds to a minute elapsed before she was trying to get PC Commons' attention;
 - g. Said that Mr. Apter's touched the upper part of Female A's body, not the lower part;
201. Further questions were asked by Ms. Williamson at 13:42. PC Kingston's evidence was that she did not see Mr. Apter make any physical contact with Female A as she was 'shuffling down'; she also said that she did not see Mr. Apter's hand on her back at that point. PC Kingston's evidence was that *"From where [I was] sitting [I] would have been able to see her moving as she was shuffling"*.
202. The Panel asked some questions at 13:43; PC Kingston:
- a. Said she had two or three drinks at Archer Street but she was not very well – she was also stressed and anxious;
 - b. Said she drank four or five alcoholic drinks totally. She said she started to feel a bit more sick at The Ship. She was asked whether she was 'drunk' at the restaurant; her answer was *"No"*. She was asked whether she was tipsy at the restaurant; her answer was *"merry"*;
 - c. Was asked about how she reacted when, despite what had been said about Mr. Apter being kept away from Female A, Mr. Apter then came to sit next to her. *Per* PC Kingston, *"I was confused [because Female A was at the end of the table]... At the time I was quite young in service – [I was] six months in"*;
 - d. Confirmed both her and Female A were response officers – she had known Female A for four years – *"she was probably four or five months into the job as well"*. She was asked if she felt she could challenge Mr. Apter; *per* PC Kingston, *"...[What he was doing was] not right at all [but I was] a little bit wary due to his position at the time"*. She said that she had been in *"...situations similar myself and... when in those situations, [I try to] move out of that situation"*;

- e. Was asked why she tried to get Ms. Commons' attention; she said it was because she was aware PC Commons had said something to her and she saw Ms. Commons looking over;
- f. Was asked whether Mr. Apter's hand went to the front or back of Female A's body; she said the front. She was asked if she was 'sure' it was to the front. She said there is *"always a bit of doubt"*.

g) Investigator Stephanie Smith

203. In the IOPC's investigator's report (otherwise set out at sub-section II.C.2.e, above), the author set out their view that:
- a. *"Digital forensics evidence on [Mr. Apter's] phone indicated a mass loss of WhatsApp and message data approximately 20 minutes after [Mr. Apter] as first contacted by DCC Snuggs. The deleted data was not recoverable"* (page 25). This was the subject of a brief legal argument, the outcome of which is set out below (paragraph 204(a), below);
 - b. *"[Mr. Apter's] email account was reviewed for material relevant to the women in these allegations. No relevant information was found"* (page 25);
 - c. The CCTV showed Mr. Apter 'topping up' Female A's glass at The Ship four times (page 60);
 - d. The timing of the 'selfie' outside The Ship was consistent with the timing of The Ship CCTV showing Mr. Apter joining Female A and PC Lynch outside (page 61);
 - e. There was no CCTV on the journey between The Ship and the restaurant (page 61).
204. In her written answers to the questions (looseleaf), Ms. Smith:
- a. Set out a long explanation about the basis for the investigator's report author's assertion about the timing of an alleged 'mass data loss' on Mr. Apter's phone. That was the subject of a brief legal argument. The agreed position that emerged from that was that the passage in the report was admissible but the AA did not *"place particular reliance"* on it;
 - b. Explained that she was not the author of the investigator's report and that she could not therefore, herself, give evidence that she saw Mr. Apter fill up Female A's glass four times at The Ship.

h) Detective Constable Esra Philipson-Masters

(1) Written Evidence

205. In her statement (otherwise set out at sub-sections II.C.2.f and II.D.2.d, above), DC Phillipson-Masters:
- a. Explains she made contact with Female A on 24.08.23 via email (page 709);
 - b. Sets out she then had a phone call with Female A on 04.09.23. In that conversation, an explanation was given about the process of giving evidence before the Panel. *Per DC Phillipson-Masters (page 709), "I... broached the subject of whether [Female A] wanted to give evidence. She told me that the IOPC said that she would be giving evidence but I pointed out that [that] would be her decision to make."*

- [Female A] advised that she had a lot going on so we agreed that I would call [on another day]... ”.*
- c. Explains (pages 709-710),
“I called [Female A] as planned on the [08.09.23]. She also sent me an email but verbally confirmed that she did not want to take it further, [she] wants to move on and [is concerned] that it’s taking so long and for what outcome. [Female A] does not want to give evidence. [/] In her email of the same date she said that – I have decided that I no longer wish to support the internal investigation for the main reason that I want to get on with my life. This has been hanging over me for [two] years now and I don[’]t... want to drag this out any longer... Therefore I do not wish to take this further and withdraw my support in the investigation. It[’]s... time to move on and get on with my life”.
 - d. Explains that DC Philipson-Masters asked, in February 2024, whether – in terms – Female A’s position was the same. Female A confirmed that it was (page 710);
 - e. Sets out that she left her contact details with Female A if the latter ever changed her mind (page 710).
206. In the written answer document (otherwise set out a sub-section II.C.2.f, above), DC Phillipson-Masters:
- a. Explains that she made contact with Female A because her role, at that stage in relation to the IOPC, was to make the arrangements for the final hearing;
 - b. Explains that she was unaware that Female A’s supportiveness had reduced since the IOPC had conducted their interview in 2023;
 - c. Explains that she had further contact with Female A on 23.04.24 and 16.05.24 to provide updates in relation to the proceedings. In response to an ‘update’ email, Female A sent an email - dated 16.05.24 – where she states, *“In all honesty not really sure what questions to ask and what outcome will be expected from this hearing”;*
 - d. There was email contact and a phone call on 31.07.24. That concerned whether she had the contact details for other witnesses. Notes of that conversation are attached to DC Phillipson-Masters’ statement – the handwriting was difficult to de-cipher (see below);
 - e. There was an email dated 07.08.24 asking for further contact to go through a Detective Sergeant Widdowson, *“As we have discussed I do not wish to give evidence at the hearing and find it retraumatising when contact is made in regards to this... ”;*
 - f. There was an email on 01.09.24 attaching responses to points raised in an email dated 31.08.24. The pertinent part of that email reads as follows:
“[Question] [Can you confirm] 1. You will not be attending and giving evidence
[Answer] I have spoken with [Female A] and she confirms that she is not attending to give evidence
[Question] [Can you confirm] 2. The reason for not wanting to do so
[Answer] Following the outcome from the [Crown Prosecution Service] [Female A] deemed that the case in her mind was closed. [Female A] feels disappointed and let down by the negative result from the CPS. [/] It took a lot of courage to make the report. [Female A] was a new officer when the report was made and did not understand

the gravity of what had happened and what would happen as a result of the report. The [alleged] offence occurred in December 2021 and took [two] years for the CPS to make a decision which was negative. The investigation had a massive effect on [Female A] having to live with it and not gain closure for such a long period of time, which prevented her from being able to move forward. [/] Every time the offence is brought up [Female A] feels she has to relive it again, which further keeps her trapped in that time and prevents her from moving forward. [/] The thought of having to give evidence at the hearing makes [Female A] feel anxious, fills her with dread and makes her tight chested. [/] [Female A] is worried that attending a hearing will trigger her PTSD. [/] [Female A] feels that any result of the hearing would not result in a satisfactory outcome that would reflect the pain that she has endured since the [alleged] offence. [/] Ultimately [Female A] is just trying to forget about it and move forward with her life... ”.

- g. Set out, in an email of 01.09.24 from DS Widdowson, further information in relation to Female A’s willingness (or otherwise) to give evidence in the proceedings.

(2) Oral Evidence

- 207. The rest of DC Phillipson-Masters’ examination-in-chief is set out at out a sub-sections II.C.2.f and II.D.2.d, above, above. In relation to this allegation, DC Phillipson-Masters:
 - a. Helped the Panel to understand her handwritten notes relating to a call with Female A on 31.07.24; in short, so far as relevant, those notes set out:
 - i. Female A was told that the hearing will determine whether or not the VRI will be played or not – if it is not played, then the AA will “lose her allegation”;
 - ii. Female A said she does not know what outcome the AA were hoping for and that she was confused;
 - iii. It was said in the call that this was “just a process now” and that Female A was “Not expecting [an] outcome for herself”;
 - iv. Female A feels in a “weird situation to it [the final hearing]”;
 - v. The barred list was explained; Female A said she “got that but he has retired”; it was explained that being on the barred list meant he could not work for other forces;
 - vi. It was explained to her that she could change her mind about not giving evidence – Female A said she “did not feel any different – no”;
 - vii. Female A was told she would be informed as to the outcome.
- 208. DC Phillipson-Masters’ evidence under cross-examination is set out at sub-section II.D.2.d, above.
- 209. The Panel had some questions at 16:39. DC Phillipson-Masters said that the first time the medical condition referred to above (paragraph 206(f), above) was mentioned by Female A was in that email.

i) John Apter

(1) **Written Evidence**

210. In his first statement responding to the caution dated 19.01.22, Mr. Apter:
- a. Recalled walking between The Ship and the restaurant with Female A's arm and his linked together (page 98);
 - b. Stated that Female A showed him a picture of her dress and Mr. Apter said words to the effect that she would "*look gorgeous in that*" and be the "... '*Belle*' of the Ball" (page 98);
 - c. Said (page 98),
"When we arrived at the... restaurant... [Female A] and I walked in together and therefore... we naturally ended up sitting next to each other. I recall as she was getting ready to sit down, she said either... [that] her back was itchy or made a movement as if she needed to scratch her back, I cannot remember which, but I then light-heartedly, and in good humour, scratched her back briefly; she was wearing a jumper or jacket as I recall at the time. I did this as I believed she wanted me to";
 - d. Said (page 98),
"I have no recollection of being at the bar with [Female A] as my recollection [was] that when we got to the restaurant we sat down almost straightaway..."; and
 - e. Denied touching Female A's bottom (page 99).
211. In the further handwritten response to caution dated 19.01.22 at page 101, Mr. Apter clarified that he did not think Female A was flirting with him and he may have said something like "*Is that OK?*" when he scratched her back.
212. On 19.01.22, Mr. Apter gave a 'no comment'-style interview on two occasions.
213. In his Regulation 31 response (otherwise set out at sub-sections II.C.2.g and II.D.2.e, above) Mr. Apter:
- a. Denied that he was drunk at The Ship and Archer street (page three Mr. Apter bundle);
 - b. Said that he bought a bottle of prosecco at The Ship because it was cheaper than buying a number of glasses (page four Mr. Apter bundle);
 - c. Said both Female A "*and her friend*" were drinking prosecco (page four Mr. Apter bundle);
 - d. Confirmed that, if he was topping Female A's drink, it was to be helpful/hospitable (page four Mr. Apter bundle);
 - e. Explained, at the restaurant, that his preference was to not sit near to PC Lynch at the restaurant because they had a difficult working relationship and they had had a discussion earlier that evening (page five Mr. Apter bundle);
 - f. Accepted sitting next to Female A - he denied 'darting through' the group of people to get to Female A's part of the table (page five Mr. Apter bundle);
 - g. Denied touching Female A's bottom "*...with a full open palm*" (page six Mr. Apter bundle); Mr. Apter contends that the footage shows Female A shuffling over without standing up (page five Mr. Apter bundle). Mr. Apter

- says that the CCTV does not support the contention that he touched Female A's bottom (page five Mr. Apter bundle);
- h. Had a recollection of "...scratching Female A's upper back...this was the only physical contact between them while they were sitting on the bench seating" (page five Mr. Apter bundle);
 - i. Could not recall whether he said, "*Is that [OK?]*" (page five Mr. Apter bundle).

(2) Oral Evidence

214. The rest of Mr. Apter's examination-in-chief is at paragraphs sub-sections II.C.2.g and II.D.2.e, above. So far as is relevant to this allegation, Mr. Apter:
- a. Distinguished between a social event such as the Archer Street gathering and a formal event such as the bravery awards;
 - b. Explained that his term as Chair was due to end and that this would be his last bravery awards. He explained that it was always his intention to undertake a second term but that "*a number of things had happened – [I] don't think [I] would have made it to the end*";
 - c. Explained that, at The Ship, he bought a round of drinks. He bought a bottle of prosecco because he assumed that two or more people were drinking prosecco;
 - d. Said he recalled the conversation with the barman about it being cheaper to buy a bottle rather than glasses because he bought the barman a drink in gratitude;
 - e. Said that he then realised that, in fact, only Female A wanted to drink prosecco;
 - f. Said that he ended up bringing two glasses back with him from the bar – he bought a gin and tonic for himself;
 - g. Said that he could not recall inviting Female A to sit on his lap;
 - h. Was asked, in terms, why he talked about various senior political figures or celebrities. He said that he was doing that in order to reassure the officers who were due to attend Downing Street and because – in terms – most officers would take advantage of the opportunity, if offered, to meet senior political figures if they could;
 - i. Was asked about whether he put his arm around Female A whilst walking to the restaurant. *Per* Mr. Apter, "*That simply didn't happen; as I recall, I was speaking to [PC] Carter-Lang... Female A came up from behind and linked my arm*". Mr. Apter accepted saying that she looked 'gorgeous' in the photo that he was shown and that she would be the 'Belle of the ball'; *per* Mr. Apter, that was an "*innocent, complementary point*";
 - j. Was asked whether he said "*you're gorgeous and you're fit*" – his response was, "*I absolutely didn't and wouldn't say 'you're fit'*";
 - k. Said he did not say that Female A could dance with him at the bravery awards – "*It is not that kind of function. There is no music; there is no dancing. It would be a daft thing to say*";
 - l. Explained that, at the time the notice was served, he could not explain any communication in the bar area. He accepted that there was physical contact between him and Female A at the bar; "*Absolutely*";
 - m. Accepted that he "*leant in*" when having a conversation with her;

- n. Described it as “*unthinkable*” that he would touch Female A’s bottom at the bar;
 - o. Said that he went to the ‘top’ of the table, after finishing speaking with another group of officers, because he would “*instinctively*” want to be near the “*nominees and their partners*”;
 - p. Explained that the only physical contact he ‘thought’ he had with Female A was when she came to a stop after ‘shuffling’ over; she made a movement against the back of the wall and he touched her back with his right hand;
 - q. Said that, if he was inclined to do anything inappropriate in respect of Female A’s bottom whilst she was moving, he could not because her bottom was not far from the bench – she did not stand up – his hand would have been squashed;
 - r. Explained that he had limited disclosure at the point of his first IOPC interview and they suggested that the incident happened as she stood up to go to the toilet – that is why some of his response focusses on that;
 - s. Explained that he gave his further handwritten response to caution when questions were posed by the officers went beyond the disclosure he had received and implied the incident had happened earlier;
 - t. Indicated that he may have appeared more withdrawn as the evening went on because he was on his phone – there were a lot of “*political issues*” with the guests that were due to attend for the following day’s event.
215. The rest of Mr. Apter’s cross-examination is at paragraphs sub-sections II.C.2.g and II.D.2.e, above. So far as is relevant to this allegation, Mr. Apter:
- a. Was asked about his presence at Archer Street and how he initially came into contact with the Leicestershire contingent;
 - b. Explained that, whilst he had been to Downing Street before, for the attendees at the bravery awards event, it was a “*special and unique opportunity*” that was “*daunting... particularly for those new in service*”;
 - c. Conceded that Female A was much younger than him, “*I didn’t put a figure on it – I think they all were [younger than him]*”;
 - d. Said he did not know whether Female A was junior in service to him, “*I don’t believe so*”;
 - e. Accepted that as the ‘selfie’ was taken at The Ship, there was some sort of discussion about Female A’s career ambitions;
 - f. Had it put to her that Female A was “*inferior*” to him. Mr. Apter strongly resisted that description but ultimately agreed with the re-phrased version of the question that she had “*less service than [me]*”;
 - g. Had it suggested to him that there was a “*massive power imbalance*” on 08.12.21 between them. *Per* Mr. Apter, “*Whether it was the bravery awards or I went out on patrol, I was really proud to be a police officer... I would be very proud to say that ‘I am one of you’... I was of the...same... rank as most of those I represented*”;
 - h. Was pressed whether Female A might have perceived a power imbalance; *per* Mr. Apter, Ms. White would have to ask Female A but “*...I would understand if that was the case*”;
 - i. Was asked about whether that power imbalance was conveyed through his showing photographs of him with senior politicians or celebrities to various people that evening;
 - j. Explained that his showing a photograph of him with the Home Secretary was intended to be “*quite humorous*”;

- k. Was asked by the Panel, before the opportunity to understand that answer more was lost, about that. Mr. Apter said that, at the time, the Police Federation had a poor relationship with the Home Office – the former had undertaken a ‘vote of no confidence’ in the latter. Relationships were, *per* Mr. Apter, “*really prickly*”;
- l. The photograph of the Home Secretary and him was humorous because it made light of the recent lack of warmth between the Police Federation and the Home Office;
- m. Was asked, by the Panel, about why he was showing the photograph of him with the Home Secretary to Ms. Uzupa-Jones. She, after all, was a teacher and not a police officer – she would probably, therefore, be less well-versed the background that was a pre-requisite to the joke ‘landing’. Mr. Apter indicated that he showed her because she was attending Downing Street - again, *per* Mr. Apter, it was an attempt to make that event feel more special and less daunting;
- n. Referred to showing Female A photographs of celebrities, again, in an effort to reassure her;
- o. Had it put to her, after she showed him a photograph of herself in a red dress, that he found her attractive. Mr. Apter denied that. Mr. Apter denied saying to Female A that he wanted to dance with her – *per* Mr. Apter, the bravery awards was not the kind of event where there was any dancing;
- p. Said, “*I found her no more attractive than any other lady in the group – [it was] not something I consciously thought*”;
- q. At The Ship, that he thought others were going to drink the prosecco – whilst Female A had asked for prosecco, he assumed others would drink it too;
- r. Accepted that producing a bottle of prosecco for her alone would make her think that Mr. Apter was trying to get her drunk;
- s. Had various parts of the videos from The Ship put to him; from that:
 - i. Mr. Apter pointed out a particular point where he said he could be seen to “*swig*” from a gin and tonic he bought himself;
 - ii. Mr. Apter had it put to him at one stage that he topped up Female A’s glass – Mr. Apter’s evidence was that he topped up his own glass and gave her her glass;
 - iii. Had it put to him at 20:02:57 that he had topped her up again;
 - iv. Had it put it put to him at 20:13:37, topped her up again and topped up his own glass too;
 - v. Had it put to him at 20:18:08, he held the prosecco bottle up and was waving it at her; *per* Mr. Apter, “*I thought it was in a circular motion to see if it was empty*”. Mr. Apter had it put to her that the motion could have been interpreted for Female A to ‘drink up’;
 - vi. Had it put to him at 20:21 that Female A went to the toilet;
 - vii. Had it put to him at 20:24:40 that PC Lynch left. Mr. Apter explained that he had been having “*quite a challenging conversation*” with PC Lynch. *Per* Mr. Apter, “*the prosecco gave me a bit of courage [to have that challenging conversation]*”;
- t. Had it put to him that, when outside with PC Lynch and Female A, the photo that was taken was a bit of “*fun*”, particularly since he had had such a tense conversation with PC Lynch. The aim was for PC Lynch and him to have a photograph together; Female A unexpectedly joined in too;

- u. Said that he sent that photograph to his son because he and his son, who was 23 years old, had an arrangement where – if Mr. Apter was busy – he would send his son a picture with no words to indicate what he was doing;
- v. Had more of the videos from The Ship put to him; from that:
 - i. At 20:40:48, Mr. Apter agreed there was another top up;
 - ii. At 20:52:41, agreed that Mr. Apter took Female A's hand and invited her to sit with him at his side of the seating area. Mr. Apter denied Female A was sitting on his lap. Mr. Apter denied inviting her to sit on his lap and said his only conversation with her, there, was about Downing Street;
- w. Had it put to him that, *per* the evidence of Ms. Uzupa-Jones, Mr. Apter "*kept bringing the conversation back to Female A*". Mr. Apter did not agree with that representation – he said the conversations were "*very equal*";
- x. Was asked whether he remembered asking whether Female was 'single' when with PC Lynch outside; *per* Mr. Apter, he may have asked her about partnerships but not whether she was single. Mr. Apter explained how his son might have entered the conversation (sending the photograph as a way of telling him what he was up to);
- y. Denied saying that his son would "*like*" Female A;
- z. Was asked about the walk between The Ship and the restaurant. Mr. Apter denied touching Female A in the way that Ms. Uzupa-Jones described;
- aa. Had the restaurant CCTV put to him; in that:
 - i. Mr. Apter agreed Female A touched his chest at 22:17;
 - ii. At 22:18:20, someone put their arm around PC Kingston;
 - iii. At 22:19:04, Mr. Apter agreed that no-one was stood between him and Female A;
 - iv. At 22:19:31, Mr. Apter agreed that he was leant over Female A's body with his face to her right cheek;
 - v. From 22:19:41-22:22:30, Mr. Apter had it put to her the positioning of various other people;
 - vi. At 22:21:40, Mr. Apter agreed he was stood directly behind her;
 - vii. At 22:21:58, Mr. Apter said he and Female A were watching cocktails being made; Mr. Apter agreed that he was "*much closer*" to Female A than others were to each other but he said it was "*...in the context of what was going on at the bar – Female A's invitation [that he watch the cocktails being made]*";
 - viii. At 22:22:31, Mr. Apter had it put to him that they were close enough to be touching – Mr. Apter did not agree with the evidence of PC Kingston that he was touching Female A "*in that way*". Mr. Apter went on, "*If [I was] leaning against Female A and I made contact – I would not dispute that*";
- bb. Had it put to him that he held Female A to her hips. He said, if he was leaning over her, it would not have been unreasonable for him to have made contact with her. Mr. Apter accepted that he may have put his hand on her back or hip area, "*[I am] accepting [I] possibly could have*". He then volunteered, "*I cannot see any response from Female A*". See paragraph 385, below;
- cc. Accepted that he was close enough to Female A to do what PC Lynch describes but that he did not do that;

- dd. Was asked whether he was *“pressing up against [Female A] for a minute or so?”*; Mr. Apter said, *“I am close behind her – [that] I accept”*;
- ee. Was asked about her leaving; *per* Mr. Apter, he assumed she had gone for a cigarette.;
- ff. Had the power imbalance put to him again between Female A, a (then) probationer and Mr. Apter, as (then) National Chair of the Federation. *Per* Mr. Apter,
“You can look at any situation in hindsight. In the context of that moment, I didn’t think. I was inappropriate especially with the conversation going on before. With the benefit of hindsight, the last thing I wanted to have done was to offend them”;
- gg. Had 22:31:28 put to him. He had various propositions put to him about how the table filled up and how Female A was sat on the end with a space between her and the next person in the direction of the centre of the table. Mr. Apter said he still thought there was a spare seat at Female A’s side of the table, i.e. she was not sat at the end of it;
- hh. Had 22:31:50 put to him and part of page 98 of his statement read to him about them naturally ending up sitting together. Mr. Apter denied making a *“b-line”* for Female A; *per* Mr. Apter, *“My focus was sitting with the group of nominees”*. Mr. Apter pointed out that PC Jones (sat near Female A on that side of the table) was a *“nominee too”*;
- ii. Indicated he did not want to speak to PC Lynch and that *“through choice [I] would have preferred to sit with the nominees and their partners”*;
- jj. Had it put to him that Mr. Apter’s aversion of sitting next to PC Lynch was *“...an attempt to explain what we can see on the CCTV”*; *per* Mr. Apter, *“not at all, not at all”*;
- kk. Was closely questioned about how Female A and him moved at the bench; he had the CCTV played to him; *per* Mr. Apter, *“At no point did I touch her bottom – she would have had to raise herself up... If she had lifted herself a tiny amount and I had done what she alleged – I would have had my hand trapped”*;
- ll. Accepted, that he accepted moving his hand after the shuffling movement. Mr. Apter denied it was to Female A’s lower body;
- mm. Was asked about the evolution of his account from touching Female A on her back to touching her to her *“upper back”*; *per* Mr. Apter, *“I just have become more specific to assist this investigation and to refute the allegations that have been made against me”*. It was put to him that he was trying to put greater physical distance between what Female A alleged and what he was saying;
- nn. Accepted he may have said, *“Is that OK?”* whilst scratching her back;
- oo. Denied that Female A said, *“Can you not touch me?”*;
- pp. Denied he was surprised when the table started to empty out and people went after the alleged incident – he believed Female A *“was not feeling 100% from drink”*;
- qq. Denied there was an *“awkward atmosphere”*;
- rr. Said he assumed Female A was unwell when, having returned to the table, she sat elsewhere;
- ss. Was asked if he had had quite a bit to drink. He said he had, *“Certainly had a few drinks”*. He went on to say, *“I knew what I was doing.. I am good at knowing when I’ve had enough”*;

- tt. Said he was drinking water at the table because he had *“had enough”*;
 - uu. Had video 45 put to him. He said that the stairs were *“relatively steep [and that he] didn’t know where the toilets were”*. Per Mr. Apter, *“I wasn’t paralytically drunk – I had a few drinks at a social event”*.
216. Half-way through his cross-examination, the Panel put to him page three of his Regulation 31 statement and asked him if he accepted he was ‘drunk’; he recounted:
- a. He had drunk two or three glasses of wine at Archer Street;
 - b. One or two large gin and tonics and two or three glasses of prosecco at The Ship; and
 - c. Water at the restaurant.
- Clarifying that point further, the Panel drew the distinction between someone being ‘paralytically drunk’ and ‘drunk’ and asked Mr. Apter if he thought he was ‘drunk’. He said, *“[I was] still in control of my faculties – I knew what I was doing... it was purely because I mixed drinks. I was probably a bit beyond merry... [but] I wouldn’t say ‘drunk’ on my definition... I walked over a mile back to the hotel”*.
217. In further questions, which commenced at 11:17 on 02.10.24, Ms. Williamson went through the (by then) two points that the AA relied on where they said Mr. Apter could reasonably have mentioned something in his interview that he now relied on at this final hearing.
218. Since we did not draw an adverse inference against Mr. Apter in this case, it is unnecessary for us to rehearse Mr. Apter’s evidence on this point – in short, we accepted Ms. Williamson’s submission that it was simply part of the natural process of giving evidence in any final hearing that any witness can give more detail when their evidence is explored in cross-examination. There was nothing untoward in Mr. Apter’s providing that further detail in cross-examination.

3. Hearsay Evidence

a) Female A

219. Female A is a serving officer of the Leicestershire Police. She provided a VRI in relation to the events of 08-09.12.21 on 22.12.21; the transcript begins at page 331.
220. Female A explains that she was the guest accompanying PC Kingston to the 2021 Bravery Awards – PC Kingston was nominated for an award.
221. The celebrations began on 08.12.21 with a party being held, organised by the Police Federation, in a function room at a venue on Archer Street, Soho, London (pages 332-333).
222. There, *per* Female A (page 333),
“...we just... stuck to ourselves ‘cause we didn’t know anybody and... obviously it’s quite overwhelming when you know you’re in London and... don’t know anyone... we were just listening to music and talking about... preparations for the next day... and speaking to [PC Commons] and his partner [, Ms. Commons, below]”.
223. At some point, Female A was introduced to Mr. Apter and they had a conversation (pages 333-334).
224. Shortly before they left, Female A was dancing *“in a big circle”* to a Christmas song (page 349).

225. After the party, Female A explains she went with the Leicestershire group (page 349) in search of a bar before, in due course, going to a restaurant where they had booked a table (page 334). The group could not get into any bars so went to a public house in Soho, London (page 335).
226. On the journey between Archer Street and The Ship, *per* Female A (page 334),
“...[I was wearing] ridiculously high heels so I couldn’t walk very well... so I was a bit slower than the rest... so I was walking with... [PC Carter-Lang] and [Mr. Apter]”
 There was a conversation between Female A and Mr. Apter where, *per* Female A, she told Mr. Apter she had a “*really nice dress*” to wear for the ceremony. Female A explained she had a picture of herself in the dress and showed it to PC Carter-Lang and Mr. Apter (page 334). Both PC Carter-Lang and Mr. Apter complemented Female A with Mr. Apter, *per* Female A, saying she [i.e. Female A] “*look[ed] stunning*”. Mr. Apter asked Female A if she would dance with him (page 335); he asked her twice (page 353). *Per* Female A (page 335), “*...I thought it was an odd thing to ask... that was the first time I started to feel a little bit uncomfortable... but... I was still keeping in mind... who he was and trying to be respectful*”.
227. Upon arrival at The Ship, Mr. Apter bought everyone ‘a round’. Female A was asked what she would like and she asked for “*a prosecco*”. Mr. Apter bought a bottle of prosecco for her (page 335). *Per* Female A, Mr. Apter put the bottle down and said, “*You’re not a cheap date*” (page 361). That was seemingly witnessed by PC Commons and others, *per* Female A (pages 361, 364, and 367).
228. *Per* Female A, at The Ship (page 335),
“...I didn’t really have much of a conversation with [Mr. Apter] inside the pub... I was speaking to [PC Commons]... then I remember [Mr. Apter] saying, ‘cause I was engaging in conversation with [PC Commons], [Mr. Apter] tried to interrupt the conversation and said[,] [‘Female A,] you’ve got a drink to drink[’] and kind of picked up the bottle and then I just looked at him and I didn’t make a comment and I continued talking to [PC Commons] and then two minutes later he said the same thing again”.
 Female A’s recollection is that she cannot recall drinking much more than a glass of prosecco at The Ship (page 335). Female A indicates she had drunk four or five glasses of prosecco prior to the point she had the prosecco at The Ship (page 360).
229. At The Ship, Female A went out to have a cigarette with PC Lynch. There, Female A and PC Lynch were discussing their respective careers. Mr. Apter appeared (page 336).
230. *Per* Female A, Mr. Apter was discussing children; Mr. Apter mentioned that his son would apparently “*like*” Female A (page 336). *Per* Female A, Mr. Apter went on to ask if Female A was “*single*” (page 336); she explains in her VRI how that question made her feel “*on edge*” (page 336).
231. *Per* Female A, she went back inside and – taking up a conversation with PC Carter-Lang – noticed she was, “*...starting to feel a bit too drunk...*” (page 336). Female A turned to PC Kingston and said how she needed to go to the toilet to “*be sick*” (page 336); Female A now sees that as her way of “*getting out*” of the situation where Mr. Apter came over again (page 368). In the event, she did not vomit but spent some time in the toilet (pages 336 and 369).
232. Female A and her group then left. PC Kingston was walking with Female A. PC Kingston asked if Female A was “*OK[?]*”; *per* Female A, she responded, “*No[,] I feel really uncomfortable... I feel like he’s making advances at me and I... don’t*

- wanna accept those advances but I don't know what to do...". Female A then explains that PC Kingston offered Female A the opportunity to sit next to her at the restaurant when they got there (page 336).
233. *Per* Female A, she believes that Mr. Apter said something like "you're gorgeous" and then "you're fit" on the way to the restaurant (page 391); Female A is not clear about when that was said (page 392).
234. Upon arrival at the restaurant, PC Commons ordered Female A another drink at the bar (page 337).
235. In due course, *per* Female A, the table was ready. Female A and PC Kingston walked to the end of the table. *Per* Female A, she had intended to sit at a fixed stool opposite to a chair she thought Ms. Kingston would sit at.
236. In the event, *per* Female A, Mr. Apter "darted" passed PC Kingston and "came to sit next to me". Female A explains that she had to move across a seat; she says this (page 337),
"It wasn't a case of just shimmying over but as I got up... he put his hand on my bum and then whispered in my ears ['is that okay?'] and I just froze... I froze 'cause I didn't know what to do... it was [at]... that point... I just wanted to get out of there... I don't like freezing 'cause normally... I would say something to somebody but... I felt like I had to accept it... I froze and I sat down for two seconds and I was just thinking in my head ['how can I get out, how can I get out?']... and I just said to him and [Ms. Kingston] ['I need to go to the toilet']".
237. Female A goes on to say (page 337),
"I remember walking [to the toilet]... [PC Commons] looked at me and he said ['are you okay?'] and I said ['no'] and he said ['right okay so we'll go outside... we'll go for a cigarette']... PC Commons came outside with me [we interpose: alongside PC Kingston] and that's when I told him that [Mr. Apter] was making advances at me and that he'd touched me and that I feel like I had to accept them because of who he was... and [PC Commons] said that it was disgusting... and ['right you're gonna come and sit next to me... so you're away from him']... I [Female A] finished my cigarette and I said ['I feel dirty']".
238. Female A explains that she was allegedly touched by Mr. Apter with his right hand to the right hand cheek of her bottom (pages 376-377 and 390). She demonstrated the sliding movement by repeatedly standing up fully. When asked if anyone else would have seen what had happened, Female A replied, "possibly... nobody mentioned anything" (page 381).
239. Female A explains, after that, in her new position sat at the table near PC Commons, there was "no further interaction" with Mr. Apter (page 337). *Per* Female A, she continued with the evening, "...as though nothing had happened..." (page 338).
240. *Per* Female A, she was aware that the matter had been reported to Mr. Donald that evening and, the following day, PC Commons took her to one side and asked her about it further. *Per* Female A, in the latter discussion, PC Commons asked her what she wanted to 'do' and Female A replied (page 339),
"... I was undecided only because I felt a lot of pressure... because of who [Mr. Apter] was and his position... and I slightly felt like well he's the Head of the Federation... I'm surrounded by Federation [people: see page 399]... I don't know whether they... what they wanna do with the information... that you know people have seen what's happened and they've seen his behaviour..."

Also I felt and have been feeling that I was to blame because I'd had something to drink... I wouldn't have let that happen if I hadn't had a drink... and I felt like... it was my fault... [PC Commons] said that they were looking at reporting it but to do an internal investigation... I kind of felt like it was being dealt with in a way... there was mention about press as well... Obviously if this gets out the press will know and I was... a bit overwhelmed by it all".

241. Female A also set out that, on the evening that this allegedly happened, she told PC Commons that she was worried she would lose her job if she did not "...accept [Mr. Apter's]... advances" (pages 386-387). Female A explains she had worked for "ten years" to get her job and, *per* Female A, it "...could all be taken away from me in a very quick incident [where] I didn't even do anything wrong" (page 387).
242. Female A explains the circumstances of how she came to tell her Sergeant back up in Leicestershire about these matters the following Monday (pages 339-341) (see paragraph 151, above).

b) Police Constable Adam Commons

(1) Witness Statement

243. PC Adam Commons of Leicestershire Police gave a statement on 07.01.22; it starts at page 512.
244. *Per* PC Commons, when the group arrived at the restaurant, he saw the following (page 513):
"...[Mr. Apter] was stood very closely behind [Female A] [at the bar] with barely an inch between them and I saw him leaning into her left ear and heard him say 'Are you having a good time?' His mouth was next to [Female A's] left ear. I could see she was not making eye contact with him and was looking straight ahead and her posture looked rigid. I believed she looked uncomfortable".
245. PC Commons says he asked Female A if she wanted a cigarette as a way of "removing her from the situation" (page 513).
246. Whilst outside, Female A – *per* PC Commons – said that Mr. Apter was "uncomfortably close".
247. On Female A's return to the table, PC Commons also describes Mr. Apter asking those on the same bench as Female A to move down (page 513).
248. *Per* PC Commons, Female A then looked at him "almost wide eyed" (page 513).
249. *Per* PC Commons, he invited Female A to help him find the toilets to "...remove her..." (page 513).
250. Ms. Commons then passed PC Commons the phone with Mr. Donald on the other end of it (page 513).
251. PC Commons recounts, the following day (09.12.21), that he spoke to Female A.
252. *Per* PC Commons, Female A told him that she had been "...touched on the bottom when we were in the restaurant which is why [I] felt so uncomfortable" (page 514). Female A indicated she did not want to report it as "...it would not achieve anything and was 'normal night out behaviour'..." (page 514).

253. The following day (10.12.21), PC Commons told Female A that it had been reported to the (then) AA. *Per PC Commons, “I asked her again to report it officially, but [Female A] was still reluctant”* (page 515).

(2) Email

254. There is an email dated 09.12.21 from PC Commons to Mr. Donald. There, PC Commons sets out his understanding of what he was told that morning, “[*Female A*] informed me that her bottom had been touched by [*Mr. Apter*] during the exchange as we had entered the restaurant which is why she had been so uncomfortable”.

III. Legal Framework (Hearsay and Submission of No Case to Answer)

255. A draft advice document was circulated to the parties’ advocates before hearing submissions. The Panel then heard submissions (see next Section) and the advice was amended. What follows is the amended advice the Chair gave the Panel:

“

A. Introduction

1. *The AA has made an application to rely on the evidence of Jamie Simpson, Female A, and PC Adam Commons as hearsay.*
2. *Mr. Apter accepts that Mr. Simpson’s evidence has already been heard so that it is therefore a matter for the Panel how much weight to put upon it.*
3. *Mr. Apter also submits that some of the charges should go no further; in summary, he submits – having now heard the AA’s case – that there is either no evidence to support those charges or, if there is evidence, that the AA’s case is so weak that the Panel should dismiss them.*
4. *In considering both of those applications, the Panel should remind itself of the terms of the Regulation 30 notice or the charge in this case. The notice explains, precisely, how the AA says that Mr. Apter’s conduct – if proved – led him to fall foul of the various Standards of Professional Behaviour. The Panel should remind itself that those are the matters the AA are seeking to prove at this final hearing.*

B. Hearsay Applications

1. Introduction

5. *So far as is relevant to this case, a statement – X - is ‘hearsay’ where X was said or written by a person who has not then given oral evidence to the Panel.*
6. *Of course, there are many statements or documents in the bundle made by a multitude of people that the Panel has not heard any evidence from; all of that evidence is hearsay too. Almost all of that material, however, is either*

- not disputed or is agreed not to be sufficiently important to require the attendance of witnesses here at this final hearing.*
7. *Formal hearsay applications, such as those made by the AA in this case, only arise where:*
 - a. *One of the parties, here Mr. Apter, disputes the truth or accuracy of statement X;*
 - b. *Mr. Apter asked, at an earlier stage in the proceedings, for the witness, A, who made statement X to come to the Panel to give evidence, i.e. to be challenged on what in their evidence is not true or inaccurate; but*
 - c. *A does not then appear at the final hearing.*
 8. *In this case, formal applications are made by the AA to admit the evidence of:*
 - a. *Mr. Simpson (i.e. what he is said to have said to others);*
 - b. *Female A (her utterances as reported to other witnesses on 08.12.21 and her VRI; and*
 - c. *PC Commons (his statement and his utterances to others).*
 9. *If the hearsay evidence is admitted then the Panel can use that evidence at a later stage of the case in deciding whether the AA has proved its allegations; in addition, the Panel can also use that evidence as part of its determination of Mr. Apter's submission of NCTA (see below).*
 10. *If the evidence is not admitted, however, then the Panel cannot rely on that hearsay evidence in any way - the Panel must put out of its mind that it read that material.*

2. The Test

11. *In this form of proceedings, where – as here - a party, Mr. Apter, reasonably requests the attendance of a witness, A, because A's evidence is in dispute or not accepted by that party, the admission of A's evidence – if A does not attend - is not a 'routine matter'.*
12. *Deciding whether to admit A's evidence requires a Panel to conduct a careful assessment of the impact of the admission of such evidence on the fairness of the proceedings.*
13. *In summary, the Panel needs to consider:*
 - a. *First, whether A's evidence can otherwise be effectively challenged by Mr. Apter without there being cross-examination of A. That, in turn, involves examination of:*
 - i. *Whether A's evidence is the 'sole or decisive evidence' in support of a particular allegation;*
 - ii. *The nature and extent of Mr. Apter's challenge to A's evidence; and*
 - iii. *Whether there is any suggestion that A has reason to fabricate the allegation they make or the evidence they give about Mr. Apter;*
 - b. *Second, the seriousness of the allegations made, taking into account the likely effect of any adverse findings on Mr. Apter;*
 - c. *Third, whether good and cogent reasons are given by the AA for A's absence and whether the steps taken by the AA to secure A's attendance have been reasonable in all the circumstances.*

14. *Whilst it may assist the Panel to set out its reasoning in stages, each of those matters set out above are part of a single assessment - undertaken by the Panel - in determining whether to admit the hearsay.*
15. *The Panel could decide to admit A's evidence but then decide, having done that, to place very little weight on that evidence. Such a course is open to the Panel but only having fully considered matters as set out in this Section.*
16. *Each aspect of the above assessment is now set out in more detail:*

a) *Whether there can be an Effective Challenge to A's Evidence if there is No Cross-Examination*

17. *Where A has written or said something that Mr. Apter asserts is not true or is inaccurate, then the purpose of A's being invited to give evidence to the Panel is so that the Panel can itself reach a conclusion of the matters in dispute between A and Mr. Apter.*
18. *The Panel can gain a great deal of insight in relation to the disputed issues in a case by hearing the oral evidence of witnesses; it is impossible to compile a list of what a Panel might gain from hearing that witness' oral evidence but, by way of examples, a Panel can:*
 - a. *Better gauge a witness' level of confidence about particular propositions, i.e. what the witness was more or less confident about;*
 - b. *Assess their responses to alleged inconsistencies in their oral or written evidence;*
 - c. *Assess their responses to having evidence put to them from other witnesses or from other sources of evidence, which the witness – entirely properly - may never have seen before. For example, a witness may never have seen certain CCTV relating to an incident before that they wrote a statement about;*
 - d. *Understand points of context or detail that may turn out to be important but are only briefly dealt with in that witness' statement; and*
 - e. *Assess the witness' responses to any alleged motive they have to lie or not give accurate evidence.*
19. *A witness' demeanour, when giving evidence, is part of a Panel's assessment of a witness' credibility.*
20. *The Panel must assess what A, had they attended, would likely have given evidence about, what would likely not have been in dispute in their evidence (from reading Mr. Apter's responses to caution and Regulation 31 statement), and whether there is other evidence, e.g. from other witnesses, CCTV, or in documents, that is/are available at this final hearing that deal with the likely disputed subject-matter of the hearsay evidence.*
21. *The only way the Panel can perform that assessment is if the Panel examines all of the evidence in the case; to that end, of course, the Panel must also read A's evidence that is the subject of the application.*
22. *The Panel should assess the quality of the opportunity that has been given to Mr. Apter, having regard to the specifics of his case, to challenge A's evidence through questions posed to other witnesses at this final hearing or*

in any submissions that Mr. Apter could make through his counsel that help to advance his case as against what A has said.

23. The fact that the Panel may find that someone, B, who recounted what a hearsay witness, A, said to them to be a credible witness of fact does not mean that the admission of A's statement is any less problematic. B may have been a reliable witness recounting something they were told by A that was false or misleading.
24. Further, the Panel must assess whether there was other evidence - either in written form in the bundle or in the evidence heard at the final hearing - that made it important that A came to the final hearing and give oral evidence.
25. If the Panel is satisfied that A's evidence is the sole or decisive evidence in relation to a charge, then the Panel must "...be satisfied either that [A's] evidence is demonstrably reliable or alternatively that there will be some means of testing its reliability": Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin) at [45], before admitting that evidence.
26. Where it is alleged that there is 'bad feeling' between a witness who has not attended and one of the parties, i.e. a motive for that witness to lie or not give accurate evidence, then every effort should generally have been made to secure that witness' attendance - there must be 'good and cogent' reasons for the witness' non-attendance before that kind of witness' evidence is admitted.

b) The Seriousness of the Allegations

27. Mr. Apter is not currently a serving officer; the only power, the Panel has – if it finds any of these allegations 'proved' and that they are 'gross misconduct' – is to say that it 'would' or 'would not' have dismissed Mr. Apter without notice if he were a serving officer.
28. It is the AA's case that all three of these allegations are so serious that they all amount to 'gross misconduct', i.e. that the sanction of 'dismissal without notice' could have been the appropriate outcome if Mr. Apter was still a serving officer.
29. Dismissal without notice is the most serious sanction in this form of proceedings.
30. The AA's case in relation to **Charge Three** is, in effect, that Mr. Apter has committed a criminal offence. In Bonhoeffer v. General Medical Council [2011] EWHC 1585 (Admin), the Divisional Court said, at [108(viii)]:
"In disciplinary proceedings which raise serious charges amounting in effect to criminal offences which, if proved, are likely to have grave adverse effects on the career and reputation of the accused party, if reliance is sought to be placed on the evidence of an accuser between whom and the accused party there is an important conflict of evidence as to whether the misconduct alleged took place, there would, if that evidence constituted a critical part of the evidence against the accused party and if there were no problems associated with securing the attendance of the accuser, need to be compelling reasons why the requirement of fairness and the right to a fair hearing did not entitle the accused party to cross-examine the accuser".

c) *The Cogency of the AA's Reasons for A's Absence*

31. *The Panel must be extremely clear as to the precise reasons why a particular witness has not attended.*
32. *If the Panel is not clear as to the reasons for a witness' non-attendance, then the Panel should direct further questions to the AA before it determines a hearsay application.*
33. *Of course, the Panel may be very clear about why a witness has not attended but be unimpressed by the reasons given by the AA for the witness' non-attendance – that is different matter.*
34. *The absence of a cogent reason does not automatically mean that A's evidence is not admitted – it is simply a matter that the Panel takes into account in reaching its decision about whether to grant the AA's applications.*

d) *The Reasonableness of the Steps taken to Secure A's Attendance*

35. *The Panel must consider whether reasonable efforts have been made to secure A's attendance by the AA.*
36. *To that end, the Panel must be clear about the extent of the efforts the AA has gone to do secure A's attendance.*
37. *If the Panel is not clear about that then it should ask further questions of the AA before determining the application.*
38. *Again, if the Panel is clear as to the efforts the AA has gone to but does not believe that the AA has gone far enough, i.e. there are reasonable outstanding things they could have done, then that is a different matter.*
39. *There is a procedure for the Chair to 'require' a civilian witness' attendance; if the civilian witness is 'available' but proves unwilling to attend, then the AA can apply on behalf of the Chair to the County Court or the High Court for a Court order requiring that person to come to the Panel to give evidence. If that civilian witness does not then attend, a warrant can be issued for that witness' arrest by the Courts. The AA have never, and does not ask, for the Chair to initiate that process; they say that the reasons for A's non-attendance make the use of such a process inappropriate. It is for the Panel to decide whether it agrees with the AA as to that.*
40. *There is also a procedure, for the Chair to require a police witness' attendance; the Chair's requiring such a witness automatically triggers a 'lawful order' being issued to them by their Chief Constable requiring them to attend at this final hearing. The AA has never asked, and does not ask, for the Chair to require A's attendance in a way that requires her to be given a lawful order to attend this final hearing. They say that the reasons for A's non-attendance make the use of such a process, requiring her to be given an order by her employer, inappropriate. It is for the Panel to decide whether it agrees with the AA as to that.*

41. *Where it is said, above, that a witness is 'available' what is meant is that the witness can theoretically come and give evidence, i.e. they are not incapacitated or untraceable.*
42. *The AA do not ask for this hearing to be adjourned so they can have further time to secure A's attendance – their case is that the evidence is admissible for the reasons they have given. If the Panel does not agree with the AA, then the AA accepts that the consequence of that ruling is that the final hearing goes on without the Panel being able to rely on that evidence because the Panel has ruled that that evidence is inadmissible.*

3. Conclusion

43. *The Panel must determine the AA's applications in an entirely dispassionate way. Whatever sympathy the Panel may have for the position of A or for Mr. Apter must be entirely put out of the Panel's mind when it reaches these decisions. The Panel must entirely ignore the consequences of its decision for any of the people touched by these proceedings.*
44. *Whilst there is no difficulty in the Panel sending questions of clarification to the parties even after it has retired, questions should generally only be concerned with clarifying matters set out in the hearing bundle or matters that were raised during the evidence the Panel heard.*
45. *The Panel must not speculate about what other documents, not in the hearing bundle - or what other witnesses - might have said. Each party has put before the Panel the matters that they say are relevant to these applications. If the totality of the material in the bundle or the evidence leaves 'gaps' or 'holes' in the AA's applications, then those matters can be taken into account by the Panel in deciding whether or not to grant the applications.*
46. *Finally, any public interest that might be said to be served by this hearing proceeding on to the next phase – i.e. to give Mr. Apter the opportunity to give evidence in his defence, if he chooses - does not justify a course that is unfair: no public interest is served by proceedings that potentially reach a wrong conclusion because the procedure adopted in them is unfair. Whilst there is, of course, a public interest in the proper resolution of these proceedings, that inherent aspect of any misconduct proceedings does not change the legal test the Panel must apply.*
47. *The Panel's Written Reasons must be sufficiently detailed so that the parties, the public, and any Tribunal or Court reviewing the Panel's decision can understand why, precisely, the Panel reached the decision that it did.*
48. *In the event that the Panel cannot reach a unanimous decision, then it can reach a majority decision of 'two-to-one'. If that is so, then nothing the Panel says must allude to or reveal that the decision the Panel made was a majority decision.*

C. No Case to Answer

49. If:
- a. *There is no evidence that the misconduct alleged in a charge happened (“limb one”); or*
 - b. *There is some evidence of the alleged misconduct happened but it is of a tenuous character, for example, because of inherent weakness or vagueness or because the evidence is inconsistent with other evidence such that the Panel is of the view that – taking the AA’s case at its highest - no properly-directed, reasonable Panel could find the charge proved (“limb two”);*
- Then the Panel’s duty is to dismiss that charge.*
50. *In making that determination, again, the Panel is to entirely put out of its mind any sympathy it has for A or Mr. Apter or the consequences that that conclusion might have for anyone touched by these proceedings.*
51. *In reaching its assessment on limb two, if the Panel’s view is that the strength or weakness of the AA’s case depends on the view taken of a witness’ reliability, and on one possible view of the evidence the Panel has heard, there is evidence upon which the Panel could come to the conclusion that the charge is proved, then the case should be allowed to proceed to the next stage of this final hearing.*
52. *The phrase ‘one possible view of the evidence’ is not referring to some theoretical, but implausible, perspective on the evidence, such as a perspective that might be gained where the Panel drew every conceivable inference against Mr. Apter. Rather, the idea being expressed is that if there is one ‘reasonable’ possible view of the evidence where a reasonable Panel could ultimately find the allegation proved, then the Panel must allow the case to proceed to the next stage. That clarification should now make it clear that: if the Panel takes the view that evidence of a witness that the AA relied on was, in the Panel’s view, self-contradictory or out of all reason or common sense, then such evidence will be tenuous and suffer from inherent weakness. The Panel could stop the case if it took the view that an oral witness’ evidence was affected in that way.*
53. *In reaching its assessment on limb two, the Panel must consider the totality of the evidence; ‘taking the AA’s case at its highest’ simply means that all the evidence the Panel has read and heard must be considered at the stage of considering a submission of NCTA. However, the Panel – at this stage - is only considering the AA’s evidence, i.e. its witness’ statements, the documents, etc. The Panel has not yet reached Mr. Apter’s case so it cannot consider Mr. Apter’s Regulation 31 response or any witness statements put forward by people Mr. Apter relies on as witnesses.*
54. *Further, the Panel must not in any way hold it against Mr. Apter that he did not answer the IOPC’s questions in his various interviews with them.”*

IV. Submissions (Hearsay and Submission of No Case to Answer)

256. Each counsel prepared detailed written submissions on this application; the Panel was greatly assisted these written documents, which were produced at every stage in the case that the Panel retired to consider something.
257. Orally, Ms. White developed her written argument, particularly about the relevance of the public interest as something that could properly be considered by the Panel as part of its consideration of the hearsay application.
258. Orally, Ms. Williamson developed her written argument that the strictures of the hearsay authorities and that, absent the AA's case being put squarely to Ms. Styles, the complete paucity of the evidence in support of that charge.
259. The Panel retired.

V. Discussion (Hearsay and Submission of No Case to Answer)

A. Hearsay Applications

260. This is an application made by the AA at the conclusion of their substantive case to admit the VRI of Female A concerning the events of the 08.12.21.
261. Female A's evidence relates to **Charge Three** in these proceedings.
262. The AA also make an application to admit the statement of PC Commons as hearsay – the latter is not resisted; the AA has filed an extensive medical report in respect of PC Commons before this final hearing.
263. It was agreed that the evidence of Mr. Simpson could be admitted on the basis that the Panel can then decide what weight should be put upon the statements he is said to have made at a later stage.
264. We must now determine the AA's hearsay application in respect of Female A.
265. In so doing, we divide our consideration into five sections:
 - a. First, we identify the nature and extent of Mr. Apter's challenge to Female A's evidence;
 - b. Second, we consider whether Female A's evidence is the 'sole or decisive evidence' for the matters in dispute;
 - c. Third, we consider whether Female A's evidence is demonstrably reliable or there is some means of testing its reliability;
 - d. Fourth, we consider the seriousness of the allegation Mr. Apter faces;
 - e. Fifth, we consider Female A's reasons for non-attendance and the reasonableness of the AA's steps to secure her attendance at this final hearing.

1. **The Nature and Extent of Mr. Apter's Challenge to Female A's Evidence**

266. We identify Mr. Apter's case; his case is that (sub-section II.E.2.i, above):
 - a. He denies placing his hand on Female A's bottom. His case is not that he 'may' have done that mistakenly; his case is that he did not place his hand on her bottom at all;
 - b. He has a recollection that he scratched Female A's upper back whilst they were sitting on the bench seating; in short, his case is that he believed he had Female A's consent to do that - there was nothing untoward about it; and

- c. He cannot recall asking Female A, “*is that [OK]?*”. We note, however, in the response to caution document dated 19.01.22 that he said he may have said something like, “*is that OK*” whilst he scratched her back;
In this way, Mr. Apter denies that he touched Female A in an untoward sexual manner that would bring him into conflict with the Standards of Professional Behaviour set out in the Regulation 30 notice.

2. Whether Female A’s Evidence is the ‘Sole or Decisive Evidence’ for the Matters in Dispute

267. Having identified Mr. Apter’s case, we consider that Female A’s evidence is “*the sole or decisive evidence*” for **Charge Three**. No-one else witnessed what Female A describes, i.e. sexualised touching to her bottom.
268. Other references in the bundle to the touching of Female A’s bottom at the table (in the restaurant) proceed, ultimately, from Female A.

3. Whether Female A’s Evidence is Demonstrably Reliable or There Will be Some Means of Testing its Reliability

a) Demonstrably Reliable?

269. There is no other evidence, such as CCTV, which demonstrates that Mr. Apter touched Female A’s bottom at the table.
270. The evidence of:
- a. PC Kingston as to Female A’s reaction in the aftermath of the alleged incident (paragraphs 197(q)-(s), above); and
 - b. The CCTV, which – if the AA’s interpretation of it is accepted – might be evidence capable of demonstrating that ‘something’ happened to make Female A uncomfortable at the table,
- Does not resolve the critical question of what that was.
271. Having answered this question in the negative, we must consider the quality of the opportunity that Mr. Apter would have to challenge Female A’s evidence if we were to admit it.

b) Will There be Some Means of Testing its Reliability?

272. We do believe that there are various means for Mr. Apter to test the reliability of Female A’s evidence at this final hearing:
- a. First, Female A’s evidence is that Mr. Apter had a sexual interest in her as revealed through his behaviour towards her that evening. For many of the examples (paragraphs 226-228, 230, 232-233, above) Female A gives about Mr. Apter’s sexual interest in her in the VRI, other people were present at the time who have given evidence at this final hearing;
 - b. Second, the AA rely on an incident at the bar. They say that that incident demonstrated an oppressive and untoward action on the part of Mr. Apter to Female A a matter of minutes before the alleged incident. If the AA is right, then it increases the probability that what Female A describes happened.

Good quality CCTV and the evidence of a number of witnesses who have given evidence at this final hearing – such as PC Carter-Lang and PC Kingston - are available to the Panel in respect of the AA's point in that respect;

- c. Third, Female A's evidence – in terms – is that Mr. Apter was trying to get her drunk at The Ship with the bottle of prosecco that he bought. Others were there who have given evidence about this at this final hearing; further, there is CCTV – albeit of limited quality - showing the four occasions where Mr. Apter handled the bottle of prosecco at The Ship. The Panel can reach its own conclusions about those videos;
 - d. Fourth, Female A's evidence sets out the level of her intoxication at different stages of the evening (paragraphs 231 and 240, above); others who have given evidence at this final hearing address that too. That issue goes to the reliability of Female A's memory;
 - e. Fifth, relatedly, much of the buildup and aftermath to the alleged incident at the restaurant can be seen on CCTV. Female A's recollection of *those* matters in her VRI can be tested by comparing it with the CCTV – if she is unreliable about other matters, then that assists the Panel in deciding whether she is reliable about her allegation;
 - f. Sixth, Female A speaks of Mr. Apter 'darting' passed the group to join her at the top of the table at the restaurant (paragraph 236, above). Mr. Apter's precise movements are all captured on CCTV; the CCTV is of a good enough quality for us to decide for ourselves whether we agree with Female A;
 - g. Seventh, the restaurant CCTV does capture the start of Female A's manoeuvre to change seats, her ultimate position when seated, and Mr. Apter's positioning as she starts to move. Female A's evidence is that she "froze" after she was touched. The Panel can reach its own conclusions on the part of the CCTV that shows the scene as Female A was starting to move;
 - h. Eighth, Female A's evidence is that she told PC Commons outside the restaurant – in the presence of PC Kingston – that she was uncomfortable (paragraph 237, above). Her evidence is that PC Commons offered her to change seat. If that is true, then it increases the probability that something of significance happened. PC Kingston was there when that conversation happened and she gave evidence at this final hearing.
 - i. Ninth, Mr. Apter has had the chance to cross-examine two out of three of the people that Female A gave her initial account to – PC Kingston, PC Commons, and PC Rowell. Those accounts were given, respectively, on the evening, the following morning, and two days later. This is not a case where Mr. Apter says that Female A had any motive to lie about him. The consistency (or otherwise) of Female A's statements to others is a means for the Panel to test the reliability of her account.
273. However, the lack of cross-examination of Female A, does mean that the Panel has lost the opportunity to see important parts of her evidence tested:
- a. First, Female A's overall level of confidence that she was specifically touched to that particular part of her body (as opposed to her back) and at that time will not be tested;
 - b. Second, whether she could recall the matters at the bar that are not mentioned at all in her VRI. If so, why she did not mention those other

matters; if not, what she made of the CCTV in relation to them if she had been shown that CCTV at this final hearing. The AA's case, after all, is that these are matters of some significance – the Panel might have expected her to recall them or to give her perspective if she did not think they were significant events;

- c. Third, whether she was touched elsewhere when she was sat down, i.e. after when she says she was touched to her bottom;
 - d. Fourth, her precise combination of reasons why she had remained at the table at all after having been touching to the bottom in the way she describes;
 - e. Fifth, relatedly, why she said – on PC Kingston's evidence (if accepted) - "*can you not touch me*" (paragraph 197(l), above) after Mr. Apter touched her leg/back rather than when he touched her bottom.
274. Overall, and on balance, we do consider that there are "*some means*" for Mr. Apter to test the reliability of Female A's account at this final hearing but that it is obviously undesirable that Female A has not attended this final hearing.

4. The Seriousness of the Allegations

275. It is agreed that **Charge Three** is an allegation that, in effect, amounts to an allegation of a criminal offence of some seriousness.
276. We consider, therefore, that – if the condition precedents in *Bonhoeffer* are satisfied, there must be "*compelling reasons*" why Mr. Apter is not able to cross-examine Female A.

5. The Reasons for Female A's Non-Attendance and the Steps taken by the AA

a) Reasons for Female A's Non-Attendance

277. We start by saying that, in *Bonhoeffer*, it was said that where there are "*no problems associated with securing the attendance of the accuser*", then - if the other conditions in that case were satisfied - there would have to be "*compelling reason[s]*" before the hearsay evidence was admitted.
278. In the case of *Thorneycroft* the law was further clarified so that the Panel has to consider whether the AA's has demonstrated "*good and cogent*" reasons for the witness' non-attendance. The Panel must also consider the reasonableness of the steps taken by the AA to secure that witness' attendance.
279. In this case, considerable steps were taken by the AA to try to secure Female A's attendance:
- a. First, after she gave her original VRI on 22.12.21, a referral was made to the Crown Prosecution Service. Ultimately, they decided not to bring a charge (paragraph 206(f), above). The file was subsequently passed to Hampshire PSD. Since then, contact was repeatedly made with Female A to assess her engagement with the proceedings (paragraphs 205 and 206(c)-(g), above);
 - b. Second, after the pre-hearing conference on 16.05.24, the AA kept in contact with Female A, including a telephone call that took place on the

- 31.07.24. In that call, further reasons were explored with Female A as to her attitude towards giving evidence in these proceedings (paragraphs 206(d) and 207(a), above);
- c. Third, on 07.08.24, there was an email from a Sergeant Widdowson that said Female A was finding contact “*retraumatising*” in respect of this matter (paragraph 206(e), above);
 - d. Fourth, on 01.09.24, there was an email that set out – in a lot of detail – further information about Female A’s attitude towards giving evidence (paragraph 206(f), above).
280. We remind ourselves that, on the day allegations took place or soon after, Female A said the following:
- a. First, before the alleged incident in the restaurant, Female A said in VRI that she felt a little uncomfortable by what Mr. Apter said to her but that she was trying to keep in her mind, “*...who he was and was trying to be respectful*” (paragraph 226, above);
 - b. Second, at around 21:48 on 08.12.21, it is in evidence that Female A sent an Instagram message to PC Rowell saying, “*...he wouldn’t leave me alone [he] made me feel really uncomfortable and I felt like I had to so I wouldn’t lose my job...*” (paragraph 156, above);
 - c. Third, on the evening of the 08.12.21, whilst outside soon after the alleged touching at the table, Female A is reported to have said to PC Kingston that she “*...felt a lot of pressure because of the type of event it was and what was going on...*” (paragraph 197(q), above); that was in the context of saying that she felt “*dirty*” about it (same);
 - d. Fourth, on the 09.12.21, Female A was hesitant as to whether to report the matter; she said the following to PC Commons (paragraph 240, above),
“*... I was undecided only because I felt a lot of pressure... because of who [Mr. Apter] was and his position... and I slightly felt like well he’s the Head of the Federation... I’m surrounded by Federation [people]... I don’t know ... what they wanna do with the information... that you know people have seen what’s happened and they’ve seen his behaviour... Also I felt and have been feeling that I was to blame because I’d had something to drink... I wouldn’t have let that happen if I hadn’t had a drink... and I felt like... it was my fault... [PC Commons] said that they were looking at reporting it but to do an internal investigation... I kind of felt like it was being dealt with in a way... there was mention about press as well... Obviously if this gets out the press will know and I was... a bit overwhelmed by it all*”;
 - e. Fifth, in the same conversation, Female A also set out that on the evening that, she told PC Commons that she was worried she would lose her job if she did not “*...accept [Mr. Apter’s...advances]*”. Female A explains she had worked for “*ten years*” to get her job and it “*...could all be taken away from me in a very quick incident [where she] didn’t even do anything wrong*” (paragraph 241, above);
 - f. Sixth, on 09.12.21, PC Commons indicated that Female A did not want to report the matter because “*...it would not achieve anything and was ‘normal night out behaviour’...*” (paragraph 252, above);
 - g. Seventh, on the 17.12.21, DC Hutton made the following observations (paragraph 153(b), above):

“[Female A] sounded a little apprehensive over the telephone. I formed the impression that she was willing to assist the investigation and willing to provide a VRI but felt concerned as she was a serving police officer with just a few years... service... I told her that it was very brave of her to report what had happened and to have the courage to pursue and support the investigation. [Female A] thanked me for my comments”.

- h. Eighth, on the 22.12.21, in her VRI, when discussing what support she would be given by various people within the police, she said this (page 342):

“... I got assigned a Fed Rep but... and [another officer] asked me... how I felt about that... and I was already... thinking it, I just hadn't said it because I like to follow processes and I like to do the right thing... but I said I feel like it's a bit of a conflict of interest only because he is Head of the Fed and I don't know who's getting told what information... [the other officer] understood... so... he spoke to his boss and they contacted them and said [to the Federation] [‘]look I think you need to just back off a little bit[‘]”

She was later told that she was to be supported locally rather than through the Federation.

- 281. We remind ourselves of the evidence of PC Kingston, among other things, was that she did not challenge Mr. Apter at the table at the time because whilst she felt, *“...[What he was doing was] not right at all [... she was] a little bit wary due to his position...”* (paragraph 202(d), above). We accept that that was not, of course, the evidence of Female A – she has not attended to give evidence. Female A and PC Kingston, however, were at a similar of professional standing at the time.
- 282. We remind ourselves of the contemporary reasons that Female A has given for her non-attendance at this final hearing:
 - a. First, she has emphasised that she wants to ‘get on with her life’ and that this has been ‘hanging over [her]’ for two years (paragraph 205(c), above);
 - b. Second, it is clear that a conversation has been had with her from Hampshire PSD to make her believe that she has a choice (paragraph 205(b), above) whether to give evidence in these proceedings as opposed to her previous belief, impressed upon by the IOPC, that she had no choice in the matter;
 - c. Third, even making contact with her in relation to this final hearing seemed to cause her to find it *“retraumatising”* (paragraph 206(e), above). She said that every time the matter is brought up she feels she has to *“relive it again”* (paragraph 206(f), above) preventing her from moving forwards in her life;
 - d. Fourth, she is disappointed in the outcome of the CPS’s decision-making process and does not believe these misconduct proceedings will serve any useful purpose (paragraph 206(f), above). She said it took a lot of courage to make her original report;
 - e. Fifth, that she was a new officer at the time and that the investigation *“had a massive effect on [her]”* (paragraph 206(f), above);
 - f. Sixth, that the thought of her attending this final hearing *“fills her with dread and makes her tight-chested”* (paragraph 206(f), above).

283. The Panel finds that there are good and cogent reasons for her not attending this final hearing:
- a. First, the reasons she gives are completely understandable and reflect the known facts about her position. She was supportive of this matter many years ago but these proceedings have taken a considerable amount of time to reach this point; she wishes to ‘move on’ for entirely understandable personal reasons;
 - b. Second, on any view, there is a clear, obvious, and vast power imbalance between Female A and Mr. Apter – that was the case at the time and is the case now. She had previously described that it took ‘courage’ to come forward and to make the allegation that she did against Mr. Apter. Mr. Apter was a figure of national significance in the ‘world’ of policing and Female A knew that. The importance of the Police Federation in supporting officers through difficult periods in their service is illustrated in this case by the concern that Female A felt when she was initially assigned a Federation representative to support her. She described it as a “*big help*” (page 343) for her ‘management’ to intervene with the Police Federation to arrange support for her locally instead. We find that we can take all of that into account by reaching reasonable inferences, from all of the evidence that we heard and read at this stage, without speculating;
 - c. Third, whilst we accept that there is no medical diagnosis for any of the matters referred to in the recent correspondence with Female A, we note the following:
 - i. PC Rowell (paragraph 161, above) and PC Kingston (paragraphs 197(q) and 199(v), above), respectively, describe Female A as crying and being distressed when discussing the events of the 08.12.21. The discussion with PC Rowell was two days later where Female A had had the opportunity to reflect;
 - ii. PC Rowell, at the time, noted that Female A “*hasn’t been sleeping or eating since the incident*” (paragraph 164, above);
 Female A is now able to describe, albeit via correspondence only rather than in a statement, the physical impact that even mention of these proceedings is having upon her. We accept that, if she gave evidence, whilst we would do everything in our power to make that process less intimidating or stressful, it is inherently stressful. That is, in our judgement, particularly so for someone in Female A’s position alleging something against someone in Mr. Apter’s position.

b) Reasonableness of Steps Taken by AA

284. We do not condone the AA’s overall policy that it is, in terms, never appropriate for complainants of sexual violence to be summonsed or ordered by their Chief Constable to attend at a police misconduct hearing if they will not otherwise attend to give evidence.
285. In this final hearing, however we reach the conclusion that a lawful order would not have been appropriate for Female A because of the circumstances of this case, including:
- a. The delay between Female A’s report and this final hearing;
 - b. The other good and cogent reasons we find for her non-attendance;

- c. We do, on balance, believe that there is a reasonable opportunity for Mr. Apter to challenge the AA's case;
- d. The strength of Female A's reaction to even the thought of giving evidence;
- e. The fact that, in this case, Female A's negative reaction is likely compounded by:
 - i. The level of attention inevitably generated by this case, both internally and externally, within the police; and
 - ii. The role of the Police Federation as the primary support mechanism available to officers at her rank.

6. Other Submissions Made

- 286. We make it clear that it is no part of our function to make findings about the Police Federation or its culture generally in 2021; the Police Federation are not a party to these proceedings and do not have notice of these matters.
- 287. We also make it clear that we have entirely disregarded paragraph five-(d) of the AA's written submissions (dated 27.09.24) in support of its hearsay application referring to other allegations.
- 288. We are not in a position to comment upon the length of time that it has taken these proceedings to come to this point.
- 289. We have no doubt, in the same way that these proceedings have had an effect on Female A and her position, that it has also had an effect on Mr. Apter too and his mental health.
- 290. Nothing that he has done has delayed the course of these proceedings.

7. Conclusion

- 291. For all those reasons, standing back, we conclude that the appropriate way to conduct this final hearing, is to admit the hearsay evidence of Female A and hear submissions, at the end of the case, as to the weight to be placed upon it.

B. Submission of No Case to Answer

- 292. This is a submission of no case to answer in respect of **Charge One**.
- 293. Ms. Styles was resistant to providing a witness statement when the IOPC were engaging with her as long ago as January and February 2022 (paragraphs 40-42, above).
- 294. In a log taken from a telephone call in January 2022, she said that she did not know whether Mr. Donald or Mr. Apter said what alleged but that it was "*most likely*" Mr. Donald (paragraph 46(b), above).
- 295. She is recorded to have said that she thought Mr. Apter and Mr. Donald were "*creepy/cringy uncle types*" (paragraph 46(c), above).
- 296. She is also recorded to have said that Mr. Apter was more of a 'people pleaser' and that was why he "*joined in*" in allegedly making inappropriate comments (paragraph 46(e), above).

297. She said, in an email in February 2022 that she was “*not completely sure*” who made the comment to her back in 2019 that is the subject of this charge. (paragraph 42, above)
298. She said, in an email in March 2022, that she did not “...*have a specific complaint regarding [Mr. Apter]*” (paragraph 43, above) and she repeated that in April 2022 (paragraph 44, above).
299. Ms. Styles gave a statement in 2024 (paragraph 49, above).
300. Ms. Styles said that she cannot “...*say with any certainty who made the comment*” (paragraph 50(c), above) and, in terms, that she did not assign much significance to the incident in any event.
301. Ms. Styles said that it was only because she mentioned ‘the incident’ to Mr. Simpson that it “*came out into the open*” (paragraph 50(e), above); she confirmed that she allowed Mr. Simpson to include that comment in his exit interview.
302. In her oral evidence, she said that she was (paragraph 53(d), above),
“99.9% certain it was not [Mr. Apter] [who made the comment]. But it was five years ago. [It was] not something that bothered me. I had a good relationship with [Mr. Apter]. It is the kind of thing that [Mr. Donald] might say”.
303. She described a “*witch hunt*” against Mr. Apter (paragraph 53(f), above).
304. Ms. Styles said that her witness statement was “*rushed*” by Hampshire PSD (paragraph 53(m), above).
305. Ms. Styles said that she could not remember discussing the matter with Mr. Buhagiar (paragraph 53(v), above).
306. When it was put to her that the latter had said she had spoken about it to him on “*three or four occasions*” that “*I don’t think that’s right – no I don’t know why I would have mentioned it – in what context?*” (paragraph 53(v), above).
307. Ms. Styles was taken to the notes in the evidence talking about “*creepy/cringy uncle types*”. She said she, “*May have used the words but not like that*” (paragraph 54(d), above). She was taken to the parts of the notes saying that Mr. Apter was a ‘people pleaser’ and that was why he said things that were inappropriate. *Per* Ms. Styles, she “*could not remember*” whether she said that to Investigator van Brienan (paragraph 54(e), above).
308. Mr. Simpson’s view of what he was told is recounted via his exit interview with Ms. Finch; it was Mr. Simpson’s understanding that Mr. Apter said those words (paragraph 57(m), above).
309. We have not had the opportunity of hearing from Mr. Simpson himself.
310. In oral evidence, Ms. Finch was unable to recall certain important details about Mr. Simpson’s account (paragraphs 59(j)-(l), above), such as where he said Ms. Styles said it happened – she did not, in her words, “*interrogate*” Mr. Simpson about those matters.
311. Mr. Buhagiar’s evidence was that he was told by Ms. Styles that Mr. Apter had said one of the versions of the chain of words attributed him. Ms. Styles, *per* Mr. Buhagiar, had told him that three or four times. Mr. Buhagiar gave an example of one time when she mentioned it to him. Mr. Buhagiar said that it was Ms. Styles’ view that the incident was “*light-hearted*” and Ms. Styles mentioned it in an “*embarrassed, jokey way*” (paragraph 66(f), above). Mr. Buhagiar said to her that if she ever wanted to speak to him privately about those matters then she could (same).
312. Mr. Buhagiar set out the kind of circumstances in which the comment came to be mentioned by Ms. Styles repeatedly to him (paragraph 66(g), above).

313. Mr. Buhagiar, in discussing the reasons why Ms. Vale might say that she was not at a Roads Policing Event when she was, that there were “...lot of people who didn’t want to talk about the incident [i.e. what founds **Charge Two**]”. He later said that (paragraph 105(a), above):
- “When [Mr. Apter] was suspended, people were in tears saying ‘I don’t want to be involved in this’ - it’s not a nice position to be in [giving evidence in a misconduct hearing]... I know the defence have to ask certain questions but [you] understand why people don’t want to be involved”.*
314. Mr. Donald said that he could not remember having a discussion with Ms. Styles about her pregnancy and that he did not hear anyone make such comments, let alone Mr. Apter (paragraphs 69 and 71, above).
315. We remind ourselves, at this stage, that we are not concerned with the question of whether this Panel is satisfied – having heard all the evidence – that this allegation is proved.
316. Rather, all we have to decide is whether a ‘reasonable’ Panel, properly-directed, could reach the conclusion that this allegation is proved (if we are satisfied that there is some evidence of the allegation).
317. The present state of the evidence is:
- a. That there is a written hearsay account from Mr. Simpson, as reported and recorded by Ms. Finch, stating that Ms. Styles told him Mr. Apter said what he is alleged to have said by the AA;
 - b. The evidence of Mr. Buhagiar was that Ms. Styles told him that Mr. Apter said that inappropriate remark on three or four occasions;
 - c. There is then the written and oral evidence of Ms. Styles which indicates that that remark was made by Mr. Donald all along.
318. Ms. Styles’ oral evidence was far more definite on the point than her previous written evidence or the notes of her account closer to the time, i.e. in 2022 rather than 2024.
319. We take the view that there clearly is a direct conflict between two live witnesses of fact that we have heard from – Ms. Styles and Mr. Buhagiar.
320. Both of them cannot be right.
321. We remind ourselves that it is the AA that bears the burden of proving this allegation and that they will have to satisfy us of this matter if we are to find it proved at the end of the final hearing.
322. We remind ourselves that, generally – however – where it is the Panel’s assessment of the credibility of a witness that forms a necessary part of what it thinks about certain evidence in a case, then those matters should only be considered when the Panel has heard all of the evidence.
323. We are not satisfied that the evidence of Ms. Styles is the only evidence that the AA relies on.
324. Whilst her evidence is seemingly inconsistent with other evidence, we are not satisfied that we can reach the conclusion that – on the totality of the evidence – the AA’s case is so inherently weak, that a properly-directed Panel could not find the matter proved.
325. Neither Ms. Styles’ evidence, nor Mr. Buhagiar’s evidence, were riven with inconsistency nor defied common sense.
326. We think that the assessment of Ms. Styles’ evidence should properly be considered in the light of her earlier statements and assessed ‘in the round’. The Panel would need to assess all of Ms. Styles’ evidence, and how it interacted with other evidence, in order to decide what weight it should put her on oral evidence.

These are all matters that are classically, were this a criminal trial, in the province of the jury.

327. What weight we put on Ms. Styles' overall evidence depends, to some extent, on what the Panel made of the credibility of Mr. Buhagiar. There is a reasonable Panel that could conclude, on the basis of:
- a. The account given by Mr. Simpson via Ms. Finch;
 - b. The evidence of Mr. Buhagiar about what he was told by Ms. Styles; and
 - c. The totality of the written/oral evidence from Ms. Styles;
- That the allegation could be proved.
328. For those reasons, we find that there is a case to answer.

VI. Legal Framework (Fact-Finding)

329. A draft advice document was circulated to the parties' advocates before hearing submissions. The Panel then heard submissions (see next Section) and the advice was amended. What follows is the amended advice the Chair gave the Panel:

“

A. Burden and Standard of Proof

1. *It is the AA who brings these allegations - it is the AA, therefore, who must prove them.*
2. *Mr. Apter does not have to prove anything.*
3. *The AA attempts to prove allegations by bringing evidence before the Panel.*
4. *Evidence can be heard orally; alternatively, where it is not in the interests of justice for a witness to be directed to attend and give live evidence (perhaps because there is no dispute about what that particular witness says), then that witness' statement can simply be read by the Panel.*
5. *Where evidence is not in the form of a witness statement, and it proceeds from someone who the Panel has not heard evidence from, then either:*
 - a. *That evidence is undisputed; or*
 - b. *There is a dispute but it is not considered to be important to the outcome of this case for the statement-maker to be invited to attend at this final hearing to give evidence.*
6. *Evidence that the Panel has read is just as much evidence in the case as evidence that the Panel has heard orally.*
7. *The Panel has heard several days of evidence and has read three bundles in full.*
8. *Whilst the Panel will be addressed on a range of matters by the parties' advocates, the Panel may not find it necessary to resolve every point raised by them in submissions or explored by them in the course of the questions that they posed to the witnesses. The reason for that is set out in the next two paragraphs.*
9. *The starting and ending point of the Panel's analysis of these allegations is the wording of the Regulation 30 notice or the charge. Those are the matters the AA seeks to prove.*
10. *In its consideration of whether the allegations in the Regulation 30 notice are proved, it is not open for the Panel to determine that – whilst it finds*

the precise allegations set out there ‘not proved’ – certain other matters that the Panel has set out for itself are ‘proved’ and, in fact, those other allegations amount to gross misconduct. To adopt such a course would be unfair to Mr. Apter and the AA who have not had the opportunity to put relevant evidence before the Panel, or addressing the Panel in submissions, on those other matters. If the Panel is not satisfied about the evidence in support of a particular allegation that is pleaded in the Regulation 30 notice, then its decision will be that that allegation is ‘not proved’.

11. *It is for the Panel to decide how, precisely, it goes about structuring its engagement with each of the allegations set out in the Regulation 30 notice. Each Regulation 30 notice is drafted slightly differently. The Regulation 30 notice in this case contains a statement of facts (which is not all accepted by Mr. Apter) followed by certain particular pleaded allegations setting out how, precisely, the AA say that Mr. Apter’s conduct has breached various Standards of Professional Behaviour.*
12. *The Panel may find it helpful to number the allegations. For example, **Charge One** could stand for the allegation concerning Charlotte Styles, **Charge Two** for the allegation concerning what Mr. Apter allegedly said about Ms. Harper, etc. but there is no requirement for the Panel to do so. If the Panel divides the allegations into **Charges One** to **Three** along those lines, then the Panel should also address – if it finds any of those allegations proved, which of the Professional Standards it takes Mr. Apter to have breached in respect of each charge, and in relation to the allegations cumulatively.*
13. *What is important is that the Panel is only determining the allegations set out in the Regulation 30 notice and nothing more.*
14. *It is the duty of the Panel to find allegations ‘proved’ only where it is satisfied that that it is more likely than not that the matters set out in that allegation are true.*
15. *This standard of proof is concerned with whether the Panel is satisfied something has been proved on “the balance of probabilities”; these are not criminal proceedings and the Panel does not need to be ‘sure’ of the matters founding any of the charges.*
16. *The Panel should strive to reach positive factual findings as to what it was satisfied about; in this form of proceedings, it should rarely be necessary for the Panel to ‘fall back’ on the burden and standard of proof. Of course, it is possible for the Panel to do so where the Panel has not found it possible to be satisfied of anything.*
17. *There is a single standard of proof - it is the balance of probabilities. That same standard of proof applies whether the AA makes allegations that are very serious or the AA makes allegations that are not very serious.*
18. *In having regard to whether something is more likely than not to have happened, common sense dictates that the Panel will have regard to the inherent probability or improbability of the matters alleged.*
19. *There is no room for the Panel to decide that the matters set out in one of the AA’s charges ‘might’ have happened – that charge is either ‘proved’ or ‘not proved’.*
20. *It is open to the Panel conclude that any one of the charges has been ‘proved’ but another is ‘not proved’.*

B. The Charge and the Standards of Professional Behaviour

21. *In this case, there is a factual narrative for each of the charges followed by a statement, at the end (page 13) on how each of those matters are said to breach the Standards of Professional Behaviour.*
22. *The three relevant Standards of Professional Behaviour, in this case, are ‘**Authority, Respect and Courtesy**’, ‘**Equality and Diversity**’, and ‘**Discreditable Conduct**’.*
23. *Quoting directly from the Regulations, those Professional Standards require officers to observe the following:*

“

...

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.

...

Equality and Diversity

Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

...

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.

Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice”

24. *The wording of the charge may go a good deal further than the precise wording of the Standards of Professional Behaviour (as set out in the preceding paragraph).*
25. *For example, one of the paragraphs that forms part of the notice says that Mr. Apter has breached the Standard of **Discreditable Conduct** in that:*
“...[he committed] sexually inappropriate behaviour in the form of i) sexual touching and ii) sexually suggestive, demeaning and/or derogatory comments towards a junior colleague and a member of the public by a police officer holding senior office within the Federation is capable of undermining public confidence in, and bringing discredit on, the Police Service”
26. *In this paragraph, the AA is explaining – in its view – precisely how it says Mr. Apter’s behaviour breached this particular Standard.*
27. *It is open to the Panel to conclude that the AA has proved part of its allegation, e.g. the Panel is satisfied that some of what is written there either in the factual part or the corresponding part at the end for that charge explaining how those matters breach the Standards is proved, but not all of it.*

28. *If the Panel is satisfied that only some of what is set out in the factual parts of the charge is proved and, having got to the end of the notice, believes that what has been found proved breaches the Standards in one way but not in another way written there, then the allegation would be 'proved' but the Panel would then explain in its Written Reasons what, precisely, it has accepted and rejected as part of that charge.*
29. *In short, the Panel can delete words from the notice, but it can never add words to the notice.*
30. *Reference has been made to the College of Policing's Code of Ethics. The Panel is not deciding whether the AA has proved the allegations it makes based on breaches of the provisions of the Code of Ethics; rather, the Panel is concerned with whether the AA has proved breaches of the Standards of Professional Behaviour. The Code of Ethics may go further than, or elaborate upon, the Standards of Professional Behaviour as set out in the Regulations, but it is the bare wording of the latter that the Panel is exclusively concerned with. In this case, it is not suggested that the wording of the Code of Ethics diverges in any material respect from the Standards of Professional Behaviour.*

C. Principles for Assessing Evidence

31. *The Panel has now heard and received all the evidence in the case. The Panel must now decide the case solely based on the evidence it has heard in the hearing room and read in the bundle the parties have agreed.*
32. *The Panel must not speculate about other matters such as other evidence it believes might be available, what it believes someone else might have said, or what it believes some other document, not in the bundle, might have said. If there are, in the Panel's judgement, 'holes' or 'gaps' in the evidence, then that is a matter that the Panel must consider in deciding whether the AA has – in fact - proved the allegations it makes.*
33. *Each Panel member brings to this case the benefit of their own experience and knowledge. The Panel must remind itself, however, that the experience of any of its members is relevant only to its analysis of the evidence it has heard in the hearing room and read in the bundle. Evidence must not be introduced by a Panel member in the course of the Panel's deliberations. The case must be tried solely on the basis of the evidence that has been heard in the hearing room or in the bundle the parties have access to; to place reliance on matters that the parties have not had the opportunity to hear, consider, or make submissions about would be wholly unfair.*
34. *The Panel must not evaluate and assess the available evidence in separate compartments; rather, regard must be had to the relevance of each piece of evidence to other evidence. If evidence is accepted on one matter, the Panel should consider how that acceptance affects its consideration of other evidence; likewise if the Panel rejects evidence on something – that might affect the Panel's consideration of other evidence. In deciding whether an allegation is proved, the Panel must consider the totality of the evidence.*
35. *Where there is little or no corroborating evidence for an allegation, the evidence that is available will either be sufficient or not sufficient to prove*

- the facts in issue to the appropriate standard. The Panel is well-placed to assess credibility, demeanour, and themes in the evidence.*
36. *The Panel will need to examine each witness' credibility, including each witness' consistency; the Panel should consider any understandable reasons for a lack of consistency. The Panel will need to form a view, if it finds that a witness has embellished or exaggerated their written or oral evidence or that – in certain respects, the witness is unreliable - whether that fact undermines the entirety of that witness' evidence.*
 37. *The Panel can take notice of the fact that people can have faulty recollection of events or be confused at times of stress or when the importance of accuracy is not fully appreciated.*
 38. *The effect of delay and repeated questioning upon memory should also be considered. In the context of cases concerning serious injuries to children, Peter Jackson J (as he then was) said in Lancashire County Council v C and others (Children: Fact-finding) [2014] EWHC 3 (Fam), at [9], "As memory fades, a desire to iron out wrinkles may not be unnatural – a process that might inelegantly be described as "story-creep" may occur without any necessary inference of bad faith".*
 39. *The Panel can take into account the demeanour of a witness when they gave evidence but should guard against an assessment of a witness' credibility based solely on their demeanour in answering counsel's questions. Demeanour is simply one part of the Panel's assessment of a witness' credibility; what that witness said, and its consistency with other statements they made or other documents in the bundle, will form a substantial part of the Panel's assessment.*
 40. *All of the above directions about how to assess evidence apply with equal force to Mr. Apter as they apply to any other witness; he has given evidence to the Panel and is entitled to the same approach in respect of assessing his evidence as with any other witness.*
 41. *The Panel should remind itself that, although Mr. Donald, Ms. Styles and Mr Bax gave evidence via video link, their evidence is to be treated in exactly the same way as the other witnesses. It is not a reflection on them or Mr. Apter that they gave evidence in that way and the Panel will not let it affect its judgement of Mr. Apter or the witnesses that they gave evidence by video link.*
 42. *It is the duty of the Panel to dispassionately consider the evidence and to not have any regard to the consequences of any findings the Panel may or may not make. Whatever sympathy the Panel may have for any of the people touched by this case, these must be set to one side and the Panel must consider the evidence in this case alone.*

D. Character Evidence

43. *The Panel was provided with a number of statements from people who know Mr. Apter personally and professionally and heard live evidence from The Reverend Wilbraham. The Panel must consider this evidence in addition to the evidence it has heard in the hearing room or read in the three hearing bundles.*

44. *Evidence of good character, of a person's being honest and/or an upstanding member of their community, is not a defence in itself to these allegations.*
45. *The weight to be attached to this character evidence is a matter for the Panel.*
46. *Any assertions of fact in those character statements pertaining to these particular allegations must be disregarded.*
47. *The Panel must state what weight, if any, it has put on the character evidence in its Written Reasons.*
48. *This character evidence may assist the Panel in two respects:*
 - a. *First, Mr. Apter gave evidence to the Panel and the Panel must consider the character evidence in deciding the question of whether it believes Mr. Apter to be a credible witness of fact; and*
 - b. *Second, the character evidence may make it less likely that Mr. Apter has behaved as alleged.*

E. *Adverse Inferences*

49. *At the outset of Mr. Apter's interviews with the IOPC, Mr. Apter was cautioned.*
50. *Mr. Apter provided written statements that were read out at the start of the interview. He then declined to answer the officers' questions.*
51. *If the Panel is satisfied that:*
 - a. *Mr. Apter failed to mention something in his interviews that he has later relied at this hearing; and*
 - b. *In the circumstances that existed at the time he was interviewed, Mr. Apter could reasonably have been expected to have mentioned that matter when he was questioned;*

Then the Panel may take that into account in considering whether Mr. Apter has told the Panel the truth at this final hearing. If the Panel was satisfied as to (a) and (b) above, then the Panel must not find any of the allegations against Mr. Apter proved wholly or mainly based on that inference alone.
52. *If, however, the Panel was not satisfied as to either (a) to (b) then the Panel must not draw any inference against Mr. Apter and must consider all the evidence without placing any weight on Mr. Apter's failure to mention those matters.*

F. *Hearsay*

53. *It is for the Panel to decide what weight to put on any hearsay evidence that is relied on by the AA in this case. The hearsay evidence comes from Mr. Simpson, Female A, and PC Commons.*
54. *In deciding what weight to put on any hearsay evidence, the Panel must consider:*
 - a. *The fact that important parts of that evidence are disputed;*
 - b. *Particularly for Mr. Simpson, the fact that his evidence depends on the accuracy of other witnesses such as Ms. Finch or Mr. Buhagiar;*

- c. *The fact that the Panel has not had the opportunity to observe those witnesses' demeanours giving evidence in the hearing room;*
 - d. *The fact that some of the hearsay was not made in circumstances where there was a statement of truth attached to a document confirming that that person asserted the truth of what was said in it; and*
 - e. *The fact that there has been no opportunity for Mr. Apter to test that each witness' evidence in cross-examination as to its accuracy or truthfulness or any ambiguity or misperception.*
55. *The Panel may also consider the circumstances in which each witness came to give that hearsay evidence and whether those circumstances make what is said by them more or less reliable.*

G. *Misconduct or Gross Misconduct?*

- 56. *The Panel must decide whether, if it finds anything proved, whether what it has found proved amounts to 'misconduct' or 'gross misconduct'.*
- 57. *In considering whether or not an allegation amounts to 'misconduct' (sometimes called 'simple misconduct') or 'gross misconduct', the Panel must decide whether it believes the allegations proved are so serious that the sanction of 'dismissal without notice' could be justified in the circumstances of this case whilst reserving the question of sanction to a separate stage.*
- 58. *If the Panel believes that allegation is so serious that dismissal could be justified, then the Panel's duty is to find that the allegation amounts to gross misconduct.*
- 59. *The Regulations define 'misconduct', as opposed to gross misconduct, as "...a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action".*
- 60. *In forming its view of this matter, the Panel is to have regard to the wording of the Guidance on Outcomes in Police Misconduct Proceedings (College of Policing, 2022) ("the Outcomes Guidance"), particularly at pages 15-33.*
- 61. *The Panel should remind itself that:*
 - a. *The sanction of dismissal without notice is the most serious sanction that it is possible for any Panel to use;*
 - b. *The purpose of the part of the police misconduct system that the Panels sit in is to consider the most serious, contested allegations of alleged police misconduct. There are many instances where individual officers' practice or behaviour could improve; poor practice can offer an opportunity to an individual officer and the police, as an organisation, to learn and avoid repetition in the future. The police have mechanisms to assist officers in improving their practices. These Panels are solely concerned with allegations of gross misconduct that are serious enough to merit dismissal without notice as an appropriate potential outcome. The Panel must only find that this allegation could be gross misconduct if it believes the allegation reaches that level of severity.*

H. Written Reasons

62. *The Panel's reasons must be sufficiently detailed and clear so that whichever party is unsuccessful in these proceedings can understand, precisely, why their case has failed, so that the public understands the Panel's decision, and so that any Court or Tribunal reviewing this decision can understand why the Panel has decided the way it has.*
63. *It is the Panel's duty to all the people touched by this case to give a reasoned decision that explains the Panel's findings and how it has reached those conclusions.*

I. Majority Decisions and Deliberations

64. *In the event that the Panel cannot reach a unanimous decision then the Panel can reach a decision by a majority of two-to-one. If that is so, then nothing the Panel records in its Written Reasons must allude to the fact that the decision that has been reached is a majority decision.*
65. *Each member of the Panel, whether they are the Policing Member, Independent Member, or the Chair, are of equal standing when the Panel retires to consider its decision in this matter.*
66. *There is no pressure of time. The Panel must take as long as it needs to in carefully considering these matters and producing its decision”.*

VII. Submissions (Fact-Finding)

330. In oral submissions, each advocate spoke to their written submissions and developed them further.

VIII. Discussion (Fact-Finding)

A. Charge One – Charlotte Styles

331. Ms. Styles gave comparatively short evidence; her evidence, however, was – in the Panel's view – far from straightforward to assess:
 - a. First, it was clear to us that Ms. Styles' initial reluctance to assist the IOPC in its enquiries continued at this final hearing. These are our reasons:
 - i. In evidence to us (paragraphs 53(e) and 81(b), above), much like in 2022 (paragraphs 40-44 and 46, above), Ms. Styles said she did not view herself as a complainant – that was so whether the comment allegedly made was by Mr. Donald or Mr. Apter (paragraph 53(j), above). Ms. Styles did not want to be treated as a complainant of any specific allegation and, in our view, appeared frustrated that she was a witness in the case at all;
 - ii. In evidence to us (paragraph 53(l), above), as in 2022 (paragraph 50(c), above), Ms. Styles did not think that the words used about her were of any great significance. Whilst Ms. Styles appeared to

recognise that such remarks were unacceptable (paragraph 50(c), above), her evidence was that the remark made was in a “*jokey way*” (paragraph 53(t), above). The fact they were said in that way appeared, to her, to significantly reduce their significance. From her actions, Ms. Styles plainly did not think the remark so unacceptable that it needed to be challenged ‘there and then’ nor believe it was appropriate to raise it formally. That was her evidence in 2024 just as it was her view in 2022 (paragraph 50(c), above);

- iii. Ms. Styles was very critical, in her oral evidence, of both Hampshire PSD (paragraph 53(m), above) and the IOPC (paragraph 53(g), above) and the way each of those organisations had interacted with her - not all of that criticism was fair, particularly in respect of her assertion that they were making her take legal advice in respect of an alleged confidentiality agreement she had with the Federation (paragraphs 40-43 and 50(b), above);
 - iv. In her oral evidence, Ms. Styles challenged the accuracy of records made at the time of her phone call with Investigator van Brienan in 2022 (paragraph 54(d), above); and
 - v. Similarly, in her oral evidence, Ms. Styles said she “*could not remember*” a record appearing to confirm it was her apparent view, in 2022, that both Mr. Apter and Mr. Donald were part of a pervasive culture of inappropriate comments being said by senior officeholders at the Federation (paragraph 54(e), above).
- b. Second, the Panel was wary – after hearing her evidence – about why she had said she was “*99.9% certain*” in her oral evidence that it was Mr. Donald who had said the remark rather than Mr. Apter. At this final hearing, two competing theories of that emerged; either:
- i. Ms. Styles was giving a consistent (if slightly elaborated) version of what she had said previously in 2022 - on that view, Ms. Styles was a credible and consistent witness of fact. This was the theory unsurprisingly advanced by Ms. Williamson;
 - ii. Alternatively, Ms. Styles was deliberately going further in her oral evidence than she believed to be true to assist Mr. Apter, who, after all:
 - 1. She liked working for (paragraphs 53(q) and (r), above);
 - 2. Had great sympathy with (paragraph 53(x), above); and
 - 3. Was someone she felt had been the subject of a “*witch hunt*” (paragraph 53(f), above).

That, in essence, was the theory contended for by Ms. White. The latter theory would involve the Panel taking a clear view in respect of Ms. Styles’ honesty to us in her oral evidence.

332. Ms. Williamson’s contention was that, since Ms. White’s theory was not put with full force to Ms. Styles in evidence, it was not a theory the Panel could properly consider for itself. Our view was that we were satisfied that there was enough of an evidential foundation for Ms. White’s submission from the documents in the bundle. The themes that made us wary of Ms. Styles’ evidence found expression in the myriad of positions taken by various people as described in the bundles (examples: paragraphs 27(c), 28(d), 35(d), 40-44, 46, 47-48, 57(p), 57(q), 77(a),

- 89, 91-92, 106(d), above, and paragraph 403, below), the evidence of Mr. Buhagiar (paragraphs 66(g)-(h) and 67(a), above), and Ms. Styles' evidence to us.
333. Indeed, in our view, there was much force in Ms. White's point explored in re-examination that Ms. Styles' (apparent) comments to the IOPC in 2022 that:
- a. Mr. Apter and Mr. Donald were "*creepy/cringe uncle types*"; and
 - b. Mr. Apter 'joined in' with a culture of inappropriate comments because he was a 'people pleaser';
- Simply could not be reconciled within Ms. Williamson's theory of matters.
334. Part of the reason this case survived Mr. Apter's submission of no case to answer was because the Panel did not know how to compare Ms. Styles' account with Mr. Buhagiar's oral evidence and what to make of her credibility more generally. We thought all of that, were this a criminal trial, would properly be left to a jury.
335. Mr. Buhagiar was initially clear that Ms. Styles was saying that it was Mr. Apter who made the comment; on being pressed by Ms. Williamson, however, Mr. Buhagiar said that Ms. Styles might have been describing something that happened in an office but which was said by someone else. *Per* Mr. Buhagiar, "*Potentially... [someone else said it-] I wasn't there when this happened*" (paragraph 66(e), above).
336. Mr. Buhagiar explained that, at the time he was first told about what Ms. Styles apparently alleged, he asked her if she wanted to speak to him privately about it – plainly, he took it seriously (paragraph 66(f), above).
337. We have not been taken to a note of any such conversation made at the time made by Mr. Buhagiar – to be fair, no-one indicated that there was one.
338. Mr. Buhagiar's evidence was that this was 'one' of those matters that came up again and again at the Federation whenever an inappropriate comment would be made by someone (paragraphs 57(p) and 66(g)-(h), above); Ms. Styles had told Mr. Buhagiar, *per* Mr. Buhagiar, on "*three or four occasions*" about it.
339. Ms. Styles' evidence, on the question of whether she told Mr. Buhagiar on three or four occasions, was "*I don't think that's right – no. I don't know why I would have mentioned it – in what context?*" (paragraph 53(v), above).
340. This was the conflict in the evidence that emerged during this final hearing.
341. We have considered the hearsay evidence of Mr. Simpson (paragraph 75(b), above) - we are unable to place much weight upon it.
342. Mr. Simpson's account is not even his account – it is that which is recounted by another witness, Ms. Finch, which then becomes agreed but only as a typed 'summary'.
343. Ms. Finch was, in our view, a diligent and experienced human resources professional; indeed, her handwritten record of Mr. Simpson's interview was impressive. We were less impressed, however, with Ms. Finch's removal of certain matters from the typed note that was agreed between Ms. Finch and Mr. Simpson (paragraphs 59(b) and (c), above).
344. In our view, Ms. Williamson succeeded in cross-examining Ms. Finch at this final hearing (paragraphs 59(j)-(l), above) repeatedly into positions where she could simply go no further on important details about what Mr. Simpson was telling her. Ms. Finch's evidence was that she:
- a. 'Assumed' Mr. Simpson was saying it took place in the office;
 - b. 'Had the impression' that Mr. Simpson was saying they were alone;
 - c. 'Got the sense' that Mr. Simpson and Ms. Styles were friends.
- The lack of detail in her recollection is not criticism of her – quite the opposite, her notes were impressive. That whole part of the evidence was simply a

- reflection of the limits of her evidence – unsurprisingly, she was not able to give her own account of what Mr. Simpson was told by someone else.
345. According to Mr. Buhagiar, Ms. Styles used to raise this episode again and again when inappropriate comments were made by figures at the Federation. Mr. Buhagiar’s evidence was that this episode was raised by Ms. Styles, pre-emptively (paragraph 67(b), above), before someone else could recount it. That context implied that there were many others present each time it was being recounted by Ms. Styles.
346. Ms. Styles’ position, *per* Mr. Buhagiar, appeared to be one of trying to retain control over the episode to either:
- a. Ensure that it was not talked about in a way that was either exaggerated or in a way that was any more embarrassing for her than it already was; or
 - b. To tailor what was told to the audience she was telling it to.
- Either way, such a context is not inherently conducive to the accurate re-telling of events.
347. Mr. Donald, who was apparently there at the time the comment was made, had no recollection of it (paragraphs 69 and 71, above). We must say something of Mr. Donald’s evidence in this case more generally.
348. Ms. Williamson, in our view, conducted powerful cross-examinations of the IOPC’s and Hampshire PSD’s officers in the case (“OICs”) in these proceedings (respectively, paragraphs 77 and 79 and 112-113, above).
349. What came out of those cross-examinations was that, for various reasons, no investigation of Mr. Donald was progressed in respect of Ms. Styles’ allegation and no proceedings were brought in respect of him. Nevertheless, an investigation was progressed in respect of Mr. Apter. Mr. Donald, in these proceedings, has not been asked to give any account under caution or been investigated as a potential perpetrator of misconduct himself. That is a completely different process to simply giving a witness statement as a witness of fact.
350. When Mr. Donald repeatedly came to give statements in this case, he was simply able to deny presence at, or knowledge of, any of the matters he was asked about.
351. In relation to 08.12.21, he did furnish a detailed account but there was never any question – in relation to that incident – that he had done anything wrong.
352. Because of the logic of the situation that Mr. Donald is in in these proceedings, his lack of recollection or denial of presence carries very little weight with us.
353. Mr. Apter gave evidence to us over the course of several hours split across two days. Our general conclusions in relation to his evidence were as follows:
- a. Our overall impression of Mr. Apter was that he was a composed and impressive witness of fact who gave detailed, ‘on point’, clear answers;
 - b. Mr. Apter was unfailingly courteous and gave evidence in a way that allowed the Panel to fully understand his case. Mr. Apter was able to identify to us when he agreed with one part of something that was put to him by Ms. White but not another part. He was quite a precise witness but not pedantic;
 - c. Mr. Apter did not hesitate or contradict himself;
 - d. Mr. Apter, in our assessment, is a gifted public speaker;
 - e. His passion for the work of the Federation was clear. Indeed, Mr. Apter appeared to us to be someone who had a great deal of sympathy for people who did not occupy positions of wealth and power in our society. This was illustrated, in the evidence by:

- i. His ability to strike up two conversations with bar staff in our consideration of **Charge Three**, buying one of them a drink (paragraph 214(d), above, and paragraph 393, below); and
- ii. His character references. We pause to say that we have read the latter in full.

It is clear Mr. Apter is someone who was in the world of policing for all of the right reasons;

- f. Unsurprisingly, Mr. Apter appeared to us to be a ‘people person’ who we can conclude is good at engaging with, and reading, other people’s reactions – that was also clear from his composure when giving evidence;
- g. Initially, Mr. Apter was visibly nervous; in our view, he ‘settled in’ and, as we say, ultimately gave good evidence – needless to say, we found Mr. Apter’s initial nervousness to be understandable;
- h. Whilst Mr. Apter clearly did not, in our view, give us truthful evidence in respect of some aspects of **Charge Three**, there were large parts of his evidence that the Panel did accept;
- i. It is important that we note in this case that the Panel did not take against Mr. Apter’s credibility in a fundamental way because of the way it analysed **Charge Three**. The ‘Mr Apter’ that the Panel saw in **Charge Three** was, in our view, a version of him where he had had a lot to drink; since we accepted, generally, the evidence of PC Lynch, we can also accept her evidence that Mr. Apter “...*did not seem right – he didn’t seem himself*” on 08.12.21 (paragraph 187(f), above);
- j. Ms. White is right that all three allegations, if true, reveal a concerning attitude towards women;
- k. However, in our view, **Charges One and Two** involve a completely different ‘mode’ of that - and a different motivational framework for each form of behaviour - than what we have found in relation to **Charge Three**. We have not found any real assistance from the events that we have set out on 08.12.21 in our analysis of **Charges One and Two**;
- l. Whilst we have drawn inspiration, in our reasons, from the full canvass of the evidence of the evidence in this case, we have observed that that canvass is one that involves important dissimilarities on one side of it to the other side of it.

354. In relation to **Charge One**, Mr. Apter’s evidence was:

- b. That fact made it even less likely he would say these matters than it was anyway; and
- c. In any event, he denied uttering those words in the most vehement terms.

355. Whatever the reason for the complexity in Ms. Styles’ evidence, it was still her evidence that both Mr. Donald and Mr. Apter were there when those words were uttered. Of course, she qualified her evidence heavily given the passage of time.

356. We accepted from Ms. Styles that the comment was made and that Mr. Apter and Mr. Donald were present when it was said. We accepted her evidence because it had been the broad tenor of her evidence since 2022 even if her confidence as to Mr. Donald’s role in it certainly became more definite in oral evidence.

357. Ultimately, for **Charge One**, we reach these conclusions:

- a. Mr. Buhagiar was initially told of these matters by Ms. Styles; his recollection is from a long time ago and it is, on his own evidence, vague;

- b. The context in which these matters came to be repeated in front of Mr. Buhagiar were, in our judgement, inherently unlikely to be a context where accuracy was prized. That was consistent with Mr. Buhagiar's evidence as to why he took the note he did in relation to the words he heard in relation to **Charge Two**;
 - c. Mr. Simpson has not attended to give evidence and, thus, we are unable to place great weight on the account he heard from Ms. Styles as recounted via the notes taken by Ms. Finch;
 - d. The only actual witness who says they were there, aside from Mr. Apter, is a witness whose evidence we are unable to straightforwardly accept. We can only accept her evidence up to the point set out above (paragraph 355).
358. We had earlier concluded that 'a' reasonable Panel could find this allegation proved. We can now say that *this* Panel, having heard all the evidence, cannot be satisfied that Mr. Apter made the remark; nor can it be satisfied that Mr. Donald made the remark. The Panel is, however, satisfied that one of them made the remark.
359. We have carefully reflected, in view of our finding in respect of **Charge Two**, and our remarks in respect of **Charge Three**, whether they support the AA's case in respect of this allegation.
360. On account of the fact that we accepted the evidence of Mr. Buhagiar as to the pervasive culture of such remarks being made among the senior officers of the Federation back in 2019/2020, that fact certainly does increase the probability of what the AA allege for **Charge One**.
361. However, the fact that Mr. Apter said something profoundly inappropriate in January 2020 about Ms. Harper and then behaved inappropriately, whilst drunk, in December 2021 in London, does not disturb the very weak evidential picture that constitutes the whole of the AA's evidence in support of this charge.
362. In view of our, given our complete inability to be satisfied as to whether Mr. Apter or Mr. Donald made this remark, the burden of proof comes to the Panel's 'rescue' and the allegation is 'not proved'.

B. Charge Three – 08.12.21

363. We heard a great deal of oral evidence in relation to **Charge Three**.

1. Introduction

364. We clarified with the AA at the outset of this final hearing that the only allegation they sought to prove in **Charge Three** was in relation to the alleged touching of Female A's bottom at the table whilst she was moving place. The AA agreed.
365. The AA, however, quite properly and fairly, drew Mr. Apter's counsel's attention to the extensive factual findings the AA was inviting the Panel to make 'on its way' to determining the overall allegation. Mr. Apter has had plenty of notice of the intermediate steps the Panel was being asked to take into account on the way to that finding.

2. Ms. Uzupa-Jones

- 366. We start with our analysis of Ms. Uzupa-Jones.
- 367. Ms. Uzupa-Jones was the only person at the dinner table on 08.12.21 who was not a police officer or police staff.
- 368. Her husband, PC Jones, did not give a statement that particularly assisted and he was not ‘required’ as a witness.
- 369. Ms. Uzupa-Jones was not even arguably caught up in any kind of ‘conflict of loyalty’ or awkwardness that might exist for police officers to give evidence against other officers before a disciplinary tribunal.
- 370. Ms. Uzupa-Jones is a teacher (paragraph 192, above); she was, in our judgement, the most independent witness we heard from.
- 371. We found Ms. Uzupa-Jones to be a compelling and reliable witness of fact.
- 372. In cross-examination, Ms. Uzupa-Jones did not demur from any of the clear propositions that were set out in her statement (paragraph 193, above). Her evidence was not exaggerated or over-broad.
- 373. Ms. Uzupa-Jones conceded, quite properly, that the passage of time had undoubtedly influenced her memory (paragraph 194, above), but did not – like some of the other witnesses (e.g. Ms. Styles or Ms. Commons) – substantially depart from what she said previously.
- 374. Cross-examination failed to shake our confidence in what Ms. Uzupa-Jones told us.
- 375. In the absence of any other countervailing evidence, aside from Mr. Apter’s (on which, see below):
 - a. It followed from that that we accepted her account as to the nature of the conversation that she observed between Female A and Mr. Apter at The Ship (paragraph 191(c), above); and
 - b. It followed from our acceptance of Ms. Uzupa-Jones’ credibility that we accepted that Mr. Apter initiated the physical contact between them when Mr. Apter and Female A were walking between The Ship and the restaurant (paragraph 191(d), above). Mr. Apter put his hand on Female A’s waist; we accept that that might have happened in the course of Female A stumbling on cobbled streets. What Ms. Uzupa-Jones, however, was clear about – and we are satisfied about – was that Mr. Apter’s hand was placed on Female A’s waist and held there for too long (paragraph 191(e), above).

3. The Ship CCTV (Part One)

- 376. We have had the advantage of seeing much CCTV from The Ship in the course of this final hearing.
- 377. It is quite clear to us, and indeed it was not disputed, that Mr. Apter can be seen ‘topping up’ Female A’s glass with prosecco repeatedly.
- 378. We, of course, do not know how much Female A had drunk of each of those glasses when he topped her up.
- 379. It is true to say, as Mr. Apter says, that from our viewing of the CCTV that – on some of those occasions – Mr. Apter also fills up his own glass.
- 380. The time over which two of those ‘top ups’ takes place was about ten minutes (paragraph 215(s), above).

381. Irrespective of the amount of prosecco Mr. Apter poured into Female A's glass, it would have created a reasonable impression in her mind that he was trying to get her drunk.
382. We are also satisfied, at 19:54, that we can see Mr. Apter and PC Lynch having a spirited discussion over something. PC Lynch can be seen, through her hand gestures, to be clearly disagreeing with Mr. Apter about something. That was as Mr. Apter said.

4. PC Tiffany Lynch

383. We found PC Lynch to a reliable and credible witness of fact. There are several reasons for this:
 - a. First, her actual evidence as to what she saw at the bar of the restaurant was the most consistent, of all of the witnesses we heard, with our view of what can certainly be seen on the CCTV (paragraph 184(h), above). We accept her evidence about where she was stood - and when - was wrong, but the core of her evidence about what she saw was right (paragraphs 186(h) and 187(d), above);
 - b. Second, PC Lynch was moved, that evening, to telephone Mr. Donald to seek his assistance to resolve the issue of Mr. Apter's behaviour that evening. We heard evidence from both Mr. Donald (who received the call) and from PC Lynch (who made the call) and their evidence, as to what they discussed between themselves, was entirely consistent (paragraphs 166-168, 170, 184(m), and 187(f), above). As set out above, this was a point where we were satisfied we were able to place weight on Mr. Donald's evidence (paragraph 351, above);
 - c. Third, PC Lynch accepted – in cross-examination – that she and Mr. Apter were “*not close*” (paragraphs 186(b) and (d), above) by the time of the 08.12.21. That was consistent with our finding, above, that PC Lynch and Mr. Apter can be visibly seen having some kind of disagreement on the CCTV at The Ship (paragraph 382, above).
384. In our view, PC Lynch is to be commended for the timely action that she took that evening to help bring Mr. Apter's behaviour to an end.
385. PC Lynch's evidence, which we have accepted, was that Female A said nothing after the alleged incident (paragraph 184(o), above). It was not a point made by PC Lynch but we pause to say that we accept the proposition that a victim of sexual violence or inappropriate behaviour need not automatically react in a particular way to them.

5. The Restaurant CCTV (Part One)

386. We have watched the CCTV (clip 58) a number of times during this final hearing; we have also view it a number of times during our deliberations.
387. In that video, we are satisfied that we can see the following:
 - a. At 22:16:27, PC Carter-Lang, Female A, PC Kingston, and PC Commons enter the restaurant followed by Ms. Commons, Mr. Apter, Ms. Uzupa-Jones, PC Lynch, and PC Jones;

- b. At 22:17:42, Female A is at the bar reading the menu – she then takes the menu, turns, and hands it to Ms. Commons who is between her and Mr. Apter;
 - c. At 22:17:56, Female A steps towards Mr. Apter and seemingly places one of her hands on his chest; Female A then places her left hand on his shoulder;
 - d. At 22:18:12, Female A then goes back to the bar and speaks to PC Commons;
 - e. At 22:18:23, Mr. Apter can be seen putting his arm around PC Kingston's shoulder;
 - f. At 22:18:50, Female A had her hand on Mr. Apter's chest and shoulder as they were engaged in conversation;
 - g. At 22:19:15, Female A – having turned around back to the bar – has her back to Mr. Apter;
 - h. At 22:19:27, Mr. Apter leans in to speak to Female A in her right ear;
 - i. At 22:19:34, Mr. Apter leans in a second time to speak to Female A in her right ear;
 - j. At 22:19:43, there is some kind of exchange between them;
 - k. At 22:19:48, Female A laughs at something Mr. Apter says;
 - l. By 22:20:36, Mr. Apter has been at Female A's side like that for over a minute;
 - m. At 22:20:39, Female A turns around and towards the rest of the group;
 - n. At 22:20:44, Female A turns back to the bar;
 - o. At 22:20:49, Female A briefly turns to Mr. Apter, looks at PC Commons, and then shakes her head very faintly;
 - p. At 22:21:14, Female A turns her head towards Mr. Apter, before turning back and visibly exhaling in a manner that appeared to be a 'sigh';
 - q. At 22:21:51, Mr. Apter appears again, leaning over her right shoulder and at her right ear;
 - r. At 22:22:00, Female A points at a cocktail being made by bar staff;
 - s. At 22:22:07, Female A appears to smile with Mr. Apter still over her right shoulder;
 - t. At 22:22:14, Female A is looking very much away from Mr. Apter who is talking into her ear;
 - u. At 22:22:27, Female A appears to grimace as Mr. Apter leans in again; at that same point, PC Lynch appears on screen;
 - v. At 22:22:35, PC Lynch and PC Commons' eyes appear to share 'a look'; PC Commons turns to his right and appears to note the proximity of Female A and Mr. Apter. He then invites Female A to go outside with him;
 - w. At 22:27, the group start to sit down at the table.
388. We now come to 'stand back' and analyse what we make of what we have seen in those videos. In our view, we can see:
- a. That Female A is plainly uncomfortable;
 - b. That Mr. Apter is extremely close to her body; indeed, he is leaning over her in a way that we would describe as "*leering over*" someone – he also clearly made contact with her body whilst he was doing that at various stages;
 - c. Mr. Apter's positioning was oppressively close – this was not, in any way, a movement capable of being explained by Mr. Apter in innocent terms at all;
 - d. There was clear distance between the other people in the bar holding conversations and the pairing containing Mr. Apter and Female A;
 - e. PC Lynch and PC Commons were responsible for bringing that leaning we have described to an end;
 - f. They behaved as they did because they were concerned by what they saw.

389. Having watched that footage, we reach the following clear conclusions:
- a. Mr. Apter had a sexual interest in Female A; and
 - b. Mr. Apter had acted on that sexual interest toward Female A by leaning in the way he did.
390. Those propositions clearly make it more likely that Mr. Apter then touched Female A in the manner that she alleges. Ms. White is right as to that submission.

6. The Restaurant CCTV (Part Two)

391. We now come to assess clip 58 again starting from 22:31:18, when Female A reappears with PC Commons and PC Kingston – they all start to sit down at the table. These are our observations on that part of the video:
- a. At 22:31:16, Mr. Apter walks towards the right hand side of the door and Female A comes through the door and walks directly to the far side of the table. We accept Mr. Apter’s evidence that he does not “*dart passed*” or “*run*” over towards her (paragraph 213(f), above);
 - b. At 22:31:21, Mr. Apter takes off his coat on the right-hand side of the screen;
 - c. By 22:31:34, it is clear that Female A has taken her coat off;
 - d. At 22:31:39, Mr. Apter waves his hand in a gesture to ask the people at the far side of the table to move down to make space for him on that side. PC Lynch gets out her phone;
 - e. At 22:31:42, Female A attempts to rise up but does not seem to get anywhere near point the point of standing up. She moves over slightly;
 - f. At 22:31:43, Michelle Commons – at the opposite side of the far side of the table – moves down one space;
 - g. At 22:31:46, Female A, with a menu in her hand, appears to either slide her bottom to her right or appears to twist in anticipation of moving up and along the bench. By this point Mr. Apter is partially behind the table;
 - h. At 22:31:49, Female A again attempts to rise up but does not seem to get anywhere near standing up and moves her body along the bench. Mr. Apter also simultaneously moves along the bench so he joins her – he does the same sort of movement;
 - i. From 22:31:44-49, PC Lynch, PC Kingston, and PC Commons all appear to be making eye contact with each other at different stages;
 - j. At 22:31:52, Female A again attempts to rise up but does not seem to get anywhere near standing up and moves her body along the bench. Mr. Apter also attempts to rise up again but, again, does not get anywhere near standing up – he moves his body along the bench too;
 - k. At 22:31:55 Female A is very faintly seen attempting rise again. Mr. Apter again also attempts to rise up.
 - l. At 22:32:23, PC Lynch stands up and is clearly making or taking a phone call;
 - m. At 22:32:59, PC Kingston performs a very subtle nod of the head in the direction of the door;
 - n. At 22:33:45, Female A moves away;
 - o. At 22:33:55, Female A looks fleetingly towards PC Kingston;
 - p. At 22:33:59, PC Commons stands up and follows Female A and PC Kingston off towards the toilet area;
 - q. At 22:34:30, Ms. Commons also moves to get out; PC Commons comes up the stairs from the toilet area;

- r. At 22:34:40, Ms. Commons and PC Commons have a brief exchange;
- s. By 22:34:42, Mr. Apter had been sat on his own for a period of time before getting his phone out and looking at his phone; he had not been engaging with anyone else;
- t. At 22:34:53 Ms. Commons leaves and goes outside;
- u. At 22:35:03, Ms. Commons returns and goes downstairs.

7. More Analysis of CCTV

- 392. We have observed that there is a notable change in Mr. Apter's demeanour from the footage at the table following Female A's exit from the table.
- 393. In reaching that conclusion, we have considered earlier footage from The Ship and earlier footage from the restaurant which showed that he was in an altogether more buoyant mood; for example:
 - a. At 19:35:13, at The Ship, Mr. Apter performs a 'thumbs up' gesture to the barman;
 - b. At 19:35:38, at The Ship, Mr. Apter shakes the hand of the barman;
 - c. At 22:17:02, Mr. Apter shakes hands with someone from a group of Lancashire officers and smiles whilst talking to them;
 - d. At 22:23:38, at the restaurant Mr. Apter smacks his hand against the bar after seemingly exchanging pleasantries with a member of bar staff;
 - e. At 22:25:50, at the restaurant, Mr. Apter re-engages with the Lancashire group again;
 - f. At 22:26:34, at the restaurant, Mr. Apter starts shaking hands of people within the Lancashire group.
- 394. In contrast, after the alleged incident at the table, Mr. Apter appears withdrawn and concerned with his phone (paragraphs 172(e) and 184(p), above). Whilst it is true to say that Mr. Apter can be seen to be repeatedly looking at his phone throughout the evening, the period of engagement at this point of the CCTV was very notable.
- 395. Mr. Apter's evidence was that that because an issue had arisen (paragraph 214(t), above) that he had to deal with. Given we take against Mr. Apter's credibility in respect of this incident fairly profoundly, we rejected that evidence.

8. The Staircase CCTV

- 396. We can deal with clip 45 quite briefly – this was footage of the toilet area at the restaurant.
- 397. In the absence of any other credible explanation about why, for example, Mr. Apter can be seen to be:
 - a. Unsteady on his feet at the bottom of the stairs at 23:02:44;
 - b. Seemingly confused as to where he is at 23:02:50;
 - c. Stumbling into the banister at 23:02:52;
 - d. Smiling to himself at 23:06:54; and
 - e. Almost falling down the stairs at 23:06:58;
 We conclude that Mr. Apter was very drunk on that evening.
- 398. We accepted the evidence of Ms. Uzupa-Jones (paragraph 191(g), above), PC Kingston (paragraphs 197(a) and (b), above), and Ms. Commons to that effect too (paragraph 179(m), above).

399. In support of this conclusion, we accepted the evidence of:
- a. First, Ms. Uzupa-Jones, the following day, that Mr. Apter failed to recognise her and husband despite having spent much of the previous evening with them (paragraph 191(l), above); and
 - b. Second, we accepted the evidence of PC Lynch that Mr. Apter could not recall taking the ‘selfie’ photograph the following day (paragraph 188, above).

9. Ms. Commons

400. We were unable to place much weight at all on the evidence of Ms. Commons.
401. Her written evidence was consistent with PC Lynch (paragraph 179(g), above) and what the Panel, in short, has clearly seen for itself on the CCTV.
402. Ms. Commons was shown the CCTV alongside PC Carter-Lang in the hearing room together.
403. When it was Ms. Commons’ opportunity to give evidence, the scale of her retraction from her written evidence was frankly staggering.
404. The retraction went beyond, for example, simple and logical corrections as PC Lynch and PC Carter-Lang had made to their accounts having now had the opportunity to see the CCTV.
405. Ms. Commons abandoned even the contention that what could be seen on the CCTV was inappropriate at all (paragraph 181(e), above). The Panel was profoundly unimpressed by that evidence.
406. For whatever reason, the Panel was satisfied that Ms. Commons did not give truthful evidence to us.
407. Even in her written evidence, Ms. Commons made no mention to Female A speaking to her after the incident, which was Female A’s evidence (we will return to this below).

10. PC Carter-Lang

408. The Panel found that PC Carter-Lang was a credible and reliable witness of fact.
409. We accept it is a matter of perception between people as to whether X is ‘flirting’ (paragraph 172(b), above) with Y; we can understand why, from seeing the CCTV, PC Carter-Lang reached the conclusion that Female A was being “*touchy feely*” (paragraph 175(b), above) that evening. We do not believe that there is, therefore, a conflict in the evidence between him and Ms. Uzupa-Jones (paragraph 191(j), above).
410. We did not place much weight on PC Carter-Lang’s inability to convincingly identify the exact moment he says Mr. Apter touched Female A’s hip (paragraphs 175(f) and 176, above). In view of what we have found in relation to the leering, we have not found it necessary to resolve the question of whether Mr. Apter held Female A’s hip in the way PC Carter-Lang described (paragraph 172(c), above).

11. PC Kingston

411. The Panel found that PC Kingston was as credible and reliable witness of fact.

- 412. First, her evidence that Female A was at the table some time after the alleged incident as she moved seats was right. PC Kingston was right that Mr. Apter and Female A were fully established sitting next to each other (paragraph 197(v), above) for some time before Female A left to go to the toilet. That was inconsistent with Female A's evidence but was consistent with the footage.
- 413. Second, her evidence as to the 'squeezing' of Female A's bottom at the bar is entirely consistent with the leering we have described above.
- 414. Third, Female A seems to have herself said to PC Commons, via an email recording the conversation in the Supplementary Bundle at page 20, that the touching happened "*...as we had entered the restaurant...*" (paragraph 254, above); that detail was not contained in PC Commons' statement. That is consistent with what PC Kingston was describing in her evidence.
- 415. Fourth, PC Kingston is right – from our assessment of the CCTV – that she is the one who instigated Female A's departure from the table (paragraph 200(f), above). That is because, we find, PC Kingston was concerned about her welfare as Female A looked uncomfortable.
- 416. We accepted, like PC Carter-Lang, that PC Kingston's evidence about when on the CCTV, precisely, the touching she described at the bar happened was unconvincing (paragraphs 199(j) and (gg), above). That is inherent in cross-examination based on material that is dense evidence and that requires analysis to properly understand. Although we could not see the part of the episode that PC Kingston describes on the CCTV, we found her to be a reliable witness of fact.

12. Mr. Apter

- 417. We rejected almost all of Mr. Apter's evidence about this evening.
- 418. It was not consistent with the clear evidence of a sexual motivation that we found existed on his part in respect of Female A.
- 419. We found that he had, in fact, very little recollection of the evening at all. That was, in our view, the only logical way for him to continue to insist to us, in evidence, that he was not 'drunk'. We accept different people have different thresholds for describing themselves as 'drunk' – on any view, from seeing video 45 (paragraph 397, above), we took the view Mr. Apter was not just drunk but very drunk.
- 420. Our view of his evidence was that he was seeking to portray himself as less drunk than he was to us so that some greater credence would be lent to his alternative thesis of how his actions ended up being misunderstood by Female A.
- 421. However, we accepted Mr. Apter's evidence that Female A and him never discussed 'dancing' together at the Bravery Awards (paragraph 214(k), above). We accepted, from Mr. Apter, that that was not that kind of function the Bravery Awards were.

13. PC Commons

- 422. Much that PC Commons saw and describes in his statements is visible from our view of the CCTV (paragraph 244, above) – he is another witness whose description we agree with. PC Commons was in a most invidious position with the

- National Chair of the Federation behaving as he was. PC Commons was, after all, the Chair of the Leicestershire Federation.
423. PC Commons took steps to assist Female A to allow her to continue the evening undisturbed.
424. PC Commons is to be commended for the actions that he took that evening.

14. Female A

425. The critical issue in our determination is the weight that we can place on Female A's VRI. Notwithstanding all of what we have said above, because the AA's allegation for **Charge Three** – which relates to the alleged touching to her bottom at the table in the restaurant – is not witnessed by anyone else, or visible on the CCTV, her evidence is extremely important.
426. In this case, we were not only concerned between resolving the conflict between Mr. Apter and her as to the alternative theses for how this happened, but in resolving conflicts in the evidence between:
- a. The CCTV and her VRI;
 - b. PC Kingston's account and the VRI; and
 - c. Her account to PC Commons the following day as set in the email rather than his witness statement and her account in the VRI.
427. We make it clear that we did not consider there was a great point to be made on behalf of Mr. Apter that PC Rowell's statement refers to Female A apparently saying this took place on a bench outside the restaurant rather than inside the restaurant (paragraph 162, above).
428. We do not say that we disbelieved Female A or that we found her to be an unreliable recorder of events. Our assessment of her VRI was that there was much that was consistent in it with other witnesses whose evidence we have accepted.
429. What we have found most difficult is:
- a. How she would have explained the delay (paragraph 236, above) between the alleged touching and her departing from the table, as described by PC Kingston (paragraphs 199(x), 200(b), and 200(f), above) and as visible from the CCTV (paragraphs 391(j) and (n), above);
 - b. How she would have reconciled the evidence in her VRI of her 'standing up' (paragraph 238, above) repeatedly with what we can see on the CCTV (paragraphs 391(e), (h), and (j), above);
 - c. How she would have responded when it was put to her that she said to PC Commons that she was touched as she 'entered' the restaurant and whether, in fact, she was confused as to whether the touching that happened that night was the touching that happened at the bar rather than happening at the table a second time (paragraph 254, above);
 - d. How she would have reacted to all of the above, when the quality of her recollection was challenged on these matters along the lines that she was intoxicated (paragraphs 179(m), 191(g), 191(k), 197(a)-(b), 231, above); and
 - e. Whether she would have recognised the touching that PC Kingston describes (paragraph 197(n), above) as, in fact, the event that immediately precipitated her leaving.
430. All of those questions could only be properly answered by Female A attending at this final hearing and giving evidence.

431. On the evidence before us, we are satisfied that ‘something’ happened at the table that caused Female A to finally remove herself from Mr. Apter, notwithstanding the position of power and influence that he occupied. We are not, however, satisfied that that ‘something’ was the action alleged by the AA.
432. The Panel’s duty is to find this allegation ‘not proved’.
433. We understand that, upon making that finding, that none of the matters referred to in **Charge Three** can be relied on at the sanctions stage of this case.

C. Charge Two – Roads Policing Conference

434. We start by repeating what we said in our ruling on – our task is not to make findings about the Police Federation more generally or its culture (paragraph 286, above). What we can do, and it is perfectly proper for us to do, is to consider the evidence that we have heard and read about the individual people who ran it in 2019 and 2020 and the culture that existed around them and those who are discussed in the papers that we have (paragraph 332, above).
435. Our greatest difficulty with **Charge One** was that the direct witness of fact of an alleged instance of misogyny gave evidence to us exonerating Mr. Apter in a way that made us wary of her as a credible witness of fact.
436. Ms. Styles’ evidence, it will be recalled, was – in our view - set against a background of hesitance and reluctance about co-operating right from the start.
437. Ms. Styles was not a manager at the Federation; nor, for that matter, was Mr. Simpson, the person who – to borrow Ms. White’s phrase – was effectively a ‘whistle-blower’ when he undertook his exit interview in 2022 and revealed the matters founding **Charge One** and **Charge Two**.
438. The observation we made about the success of Ms. Williamson’s cross-examination of Ms. Finch for **Charge One** (paragraph 344, above) apply with equal force to **Charge Two**. The weight we can properly put on Mr. Simpson’s hearsay account is accordingly very low indeed – Ms. Finch could only go so far in describing her perception of what someone else was saying they saw.
439. The difference between **Charge One** and **Charge Two**, in terms of our assessment of the AA’s case, is the evidence that Mr. Buhagiar was able to give in support of **Charge Two**.
440. Unlike for **Charge One**, Mr. Buhagiar was a direct witness of fact to what he says he saw and heard but, unlike Ms. Styles, Mr. Buhagiar came to this final hearing and was whilst – no doubt – nervous and stressed (like any other witness), in our assessment, he ultimately gave us straightforward evidence that we were able to put weight on. Notwithstanding the skilful cross-examination of Ms. Williamson, Mr. Buhagiar did not give us the kind of evidence that made us wary of its reliability.
441. As prefaced in the preceding paragraph, we found Mr. Buhagiar to be a credible and compelling witness of fact. These are our reasons:
 - a. First, Mr. Buhagiar made reasonable concessions in cross-examination:
 - i. Ms. Williamson closely questioned him about whether his later recollection of what he had heard was influenced by conversations he had had with others about it subsequently. Mr. Buhagiar’s evidence was to concede the difficulty of separating the two (paragraph 103(k), above) - he went on, however, to give evidence

- about how he could (see below) but we observe straightaway that that was a reasonable concession;
- ii. Ms. Williamson questioned him about the precise phrase used – was it ‘can’ or ‘would like’? Mr. Buhagiar’s response (paragraph 103(n), above) was that it was very difficult to remember but that the words he put in his statement were those he could remember and that he could not remember the precise order the words came in. Whilst we ultimately accepted that Mr. Buhagiar was actually able to recall this incident (see below), i.e. he had some kind of direct, ‘re-playable’ memory of it in his head, we accepted that were obvious limits of how many such memories a reasonable, intelligent person could retain over a four year period. Mr. Buhagiar’s deference to his written statement, and later to his written notepad (see below), as to these matters of detail, was reasonable;
 - iii. He conceded he had a “*hazy*” memory of a later conversation with Mr. Bax (paragraph 103(w), above) and a “*very hazy*” memory of Ms. Blekkenhorst’s movements (paragraph 106(a), above).
- b. Second, Mr. Buhagiar gave detailed evidence of his memory of the event:
- i. He was able to tell us where it happened, clarify the positioning of people, i.e. that they were in different sub-groupings but still all there as a group, and even the broad timeframes of the evening, and even which direction his face was looking in when it was said (paragraphs 102(a)-(b), 103(b)-(c), (i)-(j), (l), and (p) above);
 - ii. He was even able to discuss, when he was being closely-questioned by Ms. Williamson in cross-examination, the evolution of his own thought process in interpreting Mr. Apter’s words. Mr. Buhagiar’s journey, processing the words, took him from believing Mr. Apter had been talking about ‘comforting her and taking her to the stage’ to ‘comforting her in his hotel room’ (paragraph 103(l), above). Before analysing that further, we make this point: that evidence demonstrated to us that what Mr. Buhagiar was able to recall was not something he had written down subsequently or a passage in his witness statement, but a real-life event that he was re-playing in his head. He was telling the Panel about a memory he was able to replay in his head;
 - iii. This was plainly an event of some significance to him. He had only been in post for a relatively short amount of time (paragraph 66(a), above). His expectations, having come from a different ‘world’ meant that he found such a comment jarring (paragraphs 66(b) and (d), above);
 - iv. He was able to describe a change in mood (paragraph 103(m), above) from before and afterwards that implied others thought the comment was distasteful. Although we put very limited weight on what Mr. Simpson said to Ms. Finch, Mr. Simpson seems to have shared Mr. Buhagiar’s view as to the event’s significance even if he did not share Mr. Buhagiar’s recollection as to the precise words used (paragraph 95(b), above). Mr. Simpson, it is to be recalled, is a man who subsequently complained about Mr.

- Buhagiar's management style and yet he agreed with him on this point (paragraphs 57(e) and 59(d), above);
- v. He was able to talk about the subsequent events of the evening – being in a bar at a particular time – and even the discussion he had in that bar (paragraph 103(k), above). That reinforced his evidence as to the event's significance;
 - vi. He was able to describe his own frustration that Mr. Apter had said that but then went on, notwithstanding what he had said, to conduct the actual awards ceremony with professionalism (paragraph 102(g), above);
 - vii. He was able to recall who was there. When the Panel pushed him as to whether he really was confident Ms. Vale was there (after giving evidence about her positioning in re-examination) – the Panel took Mr. Buhagiar to an email (paragraph 105(a), above) implying Ms. Vale had not been there – Mr. Buhagiar stuck to his position that she was. Mr. Buhagiar said he was "100%" as to that, *"In my mind, I remember her being [there] and her face"* (paragraph 106(b), above). Mr. Buhagiar did not know it at the time when he said it, but that later proved to be the belief of Mr. Apter also (paragraph 117(f), above);
 - viii. His evidence was consistent with a near-contemporaneous entry he made in his notepad at the time (paragraph 107, above). We are satisfied that Mr. Buhagiar had not studied that notepad before giving his evidence but, rather, that he found the notepad after he was cross-examined to take up Ms. White's and the Panel's invitation to do that as a result of the challenge put to him in cross-examination. One of our reasons for that conclusion was that Mr. Buhagiar was seemingly wrong about the day of the week (paragraph 103(ff), above) of the meeting where he made his note of this matter. If Mr. Buhagiar had read his notepad in advance of giving evidence, he would likely have been more accurate about when that meeting was. We forgave Mr. Buhagiar's lack of accuracy about days of the week for events taking place four years ago – again, such details would not have been significant enough for even someone with a very powerful memory to recall;
 - ix. Again, Mr. Buhagiar was also unaware of the second witness statement of Mr. Bax where the latter said he had no recollection of any conversation with Mr. Buhagiar about the comment (paragraph 125(a), above). Mr. Buhagiar's clarification, in his own second witness statement prepared during this final hearing, was that that meeting with Mr. Bax never took place (paragraph 109(g), above). That was were consistent with the propositions of Mr. Bax's statement without Mr. Buhagiar being aware of it.
- c. Third, Mr. Buhagiar's evidence was internally consistent – there was no point when it was suggested his written or oral evidence was afflicted by internal inconsistency;
 - d. Fourth, Mr. Buhagiar's evidence was consistent with other evidence that was agreed or that we accepted:
 - i. Mr. Buhagiar gave evidence consistent with Mr. Apter's evidence that he took very seriously the task of supporting Ms. Harper

- through the Roads Policing Conference before the event. We accepted Mr. Apter's evidence about that - it was detailed, clear, and compelling (paragraphs 117(a)-(c), above);
- ii. Mr. Buhagiar gave evidence about the demands placed on the communications team by the office-holders within the Federation that was consistent with the evidence later given by Mr. Apter (paragraphs 87(p) and 103(qq), above).
- e. Fifth, we did not accept that Mr. Buhagiar's credibility was significantly undermined via cross-examination:
- i. It was suggested to him that, had he heard that happen, he – as a manager at the Federation – would have said something immediately. Mr. Buhagiar's evidence was that it was his style to raise things privately later (paragraphs 66(f), 103(y), and 109(c) above). We did not think there was anything wrong or objectionable with such a course; indeed, it was a consistent theme in his evidence that he took matters such as this seriously and was disappointed by them even if the culture around him did not think them significant, e.g. Mr. Buhagiar's offer to speak to Ms. Styles privately about her allegation;
 - ii. Mr. Buhagiar accepted candidly that he was not a popular manager. He gave reasons for that – it was because, in terms, he was trying to make each member of his team have the skills to take on each task within his team rather than divide the work between people who did discrete tasks (paragraph 66(j), above). For what it is worth, that was one of the myriad of complaints made against him by Mr. Simpson recorded in Ms. Finch's note (paragraph 59(d), above);
 - iii. Mr. Buhagiar had it put to him that the videos from the 2020 Bravery Awards (in October 2021) did not show Mr. Apter drunk. These are our findings as to that:
 1. It was in response to the challenge that was put to him that Mr. Buhagiar mentioned the 'hip flask';
 2. It was Mr. Buhagiar's evidence that those videos showed Mr. Apter as having drunk a "*fair amount of alcohol*" (paragraph 102(h), above);
 3. We heard Mr. Apter's evidence that he was tired and that, for the clip that was 'direct to camera', Mr. Apter was competing with loud noises in the background and did not have a 'script' (paragraphs 103(hh) and 117(n), above);
 4. From hearing Mr. Apter give evidence, the Panel can readily accept Mr. Buhagiar's evidence that Mr. Apter a skilful communicator who could make impressive "*off the cuff*" remarks (paragraph 103(hh), above);
 5. For our part, we have studied all three videos ourselves repeatedly. We have found it hard to tell if Mr. Apter definitively is drunk or not. We can see why someone might conclude Mr. Apter was drunk. This footage was not like the footage at the restaurant in **Charge Three** where, absent any other credible explanation, Mr. Apter certainly was drunk. We cannot be satisfied, as a matter of proof, that the videos

- demonstrate that Mr. Apter is drunk but we also are satisfied that someone could not be criticised for believing that he was drunk from those videos but doing his best to not appear so;
6. We heard Reverend Wilbraham's evidence as to the October 2021 CCTV. It was his evidence that he had never seen Mr. Apter drunk even though he had known him professionally since 2007 (paragraphs 140(a) and 144, above). Reverend Wilbraham gave clear evidence that the way we saw Mr. Apter speak is simply how he speaks when he is nervous. We can accept that from Reverend Wilbraham. What is important, however, is that we still believe that there would be reasonable grounds for someone to look at those videos and conclude that Mr. Apter was drunk. The Reverend had also not had the advantage of comparing what Mr. Apter was like when he was drunk. As Mr. Buhagiar said, "*...I am not claiming that he was having a large amount of alcohol*" (paragraph 103(rr), above).
 - iv. Mr. Buhagiar explained that he left the Federation in 2022 and set up his own communications business since; he accepted that he still worked with police forces and had written a few freelance articles about policing (paragraph 68, above). We considered it brave of Mr. Buhagiar to come and give evidence about these matters despite the passage of time, the personal admiration he felt for Mr. Apter in certain respects (paragraphs 66 and 103(hh), above), his foreknowledge of what the process of giving evidence would involve (paragraph 106(d), above), and the fact he still worked in a field connected with the world of policing (paragraph 68, above). It would have been easy for a witness like Mr. Buhagiar to simply have not given evidence or assisted the investigating authorities – he would have been spared being, in effect, called a liar at this final hearing if he had taken that course. Instead, we found that he came to this final hearing and told the truth; we accept his words, "*I cannot change how people behaved or acted but I am not going to lie*" (paragraph 103(rr), above).
 442. We read the statements of Chief Constable Marsh and Ms. McMahon-White. Chief Constable Marsh could not recall whether Mr. Apter was drunk at the Bravery Awards in October 2021 but very much doubted it. Ms. McMahon-White confirms it was her view, sitting at the same table as Mr. Apter in October 2021 and speaking directly to him later in the evening, that he was not drunk. Neither of these statements shake us from the view that we expressed above (paragraph 441(e)(iii)(6), above).
 443. We considered the evidence of Mr. Bax. His brief statement indicated that he did not recall hearing any such remark. It was Mr. Buhagiar's evidence that he was there. Mr. Bax's oral evidence was that he arrived at the point that they were all in the restaurant and not the main conference room (paragraph 134, above). He said he did not recall speaking to them all in the conference room. Either he is wrong about when he arrived or Mr. Buhagiar is wrong about Mr. Bax's presence. Mr. Bax, as part of his evidence, said he had read Mr. Buhagiar's oral evidence via online media reports of this final hearing (paragraph 132(e), above). We also noted part of an email when he was originally unco-operative with the IOPC; he referred to his hope that the investigation "*...results in [Mr. Apter's] exoneration*"

- (paragraph 94, above). These matters affected the weight that we gave to Mr. Bax's evidence and how clearly he actually remembers the events anyway (paragraphs 123(b), 125(a), 132(d), and 135(c)). He may well have been present in the conference hall but not engaged with that particular strain of the conversation.
444. In short, Mr. Bax's evidence did not cause us to significantly doubt the evidence of Mr. Buhagiar.
 445. We were unable to place much weight on Mr. Donald's evidence for the reasons given above.
 446. We accepted, without any reservation, Mr. Apter's evidence that he did a great deal to prepare for Ms. Harper's attendance at the Roads Policing Event. Such preparation belied the profound and genuine sympathy that we are satisfied Mr. Apter had for Ms. Harper's position.
 447. It is true that if Mr. Apter was, as we have found him, profoundly sympathetic to Ms. Harper's position that it makes it less likely he said what he is alleged to have said.
 448. Mr. Apter has issued the most vehement denials of this allegation at this final hearing – he has always denied it (paragraphs 117(i)-(j) and 118(e) and (h), above).
 449. We have had regard to Mr. Apter's character statements and have considered them in relation to both uses that can be made of character evidence.
 450. We were unable to place much weight on Mr. Apter's oral evidence about who else was in the huddle at the time because of the terms of his response to caution where he said he could not remember (paragraph 118(f), above).
 451. We accepted the evidence of Ms. Styles that the comment made to her was made in Mr. Apter's presence (paragraph 335, above). Ms. Styles' view of what is acceptable work 'banter' was, in our view, plainly quite forgiving. We cannot accept Mr. Apter's characterisation of the working culture between at least him and Mr. Donald (paragraphs 85(c), 87(m)-(n), and (t), above). We found Mr. Buhagiar's evidence about the "*bloke banter*" between them to be consistent with Ms. Styles' evidence (paragraph 67(a), above).
 452. We are satisfied that Mr. Apter's people skills are advanced and that he would use humour to endear himself to others.
 453. We know that Mr. Apter took very seriously his responsibility to Ms. Harper but, in a very brief and casual way – when around people who he was comfortable with and in a moment of levity – we are satisfied that he said the remark about the hotel room attributed to him by Mr. Buhagiar. We are satisfied that the remark was made in a lewd way – that is the only interpretation that is consistent with the words he chose.
 454. We considered Mr. Apter's character evidence but it did not displace our confidence that Mr. Buhagiar told us the truth.
 455. No person or Panel would want to add any more hurt or pain to the suffering of Ms. Harper. Our duty, however, on behalf of the public, is to find an allegation 'proved' if we find that the evidence is sufficient.
 456. We find that the evidence is sufficient for this charge in this case.
 457. Whilst, of course, we surveyed the whole canvass of the evidence in this case before reaching this conclusion, we did not derive any of our supportive reasoning for this finding from those matters that we did not accept in the evidence of Mr. Apter pertaining to **Charge Three**.
 458. We did, however, derive supportive reasoning from the way that we analysed **Charge One**.

459. Again, we repeat, the primary reason for making the finding that we have was the clear, compelling, and powerful evidence of Mr. Buhagiar who we found to be a very credible witness of fact.
460. We find that Mr. Apter's conduct fell foul of each of the Standards of Professional Behaviour pleaded for **Charge Two** in the manner enumerated in the Regulation 30 notice.
461. Our preliminary view, without in any way binding us at the sanction stage of this case, was that this finding was serious enough, on its own, to qualify as 'gross misconduct'.

IX. Conclusion (Fact-Finding)

462. The Panel finds:
 - a. **Charge One – NOT PROVED – DISMISSED;**
 - b. **Charge Two – PROVED AS GROSS MISCONDUCT;**
 - c. **Charge Three – NOT PROVED – DISMISSED.**

X. Submissions (Sanction)

463. We had the advantage of further written submissions from Ms. White and Ms. Williamson. Both of them spoke to these orally.

XI. Discussion (Sanction)

A. Matters of Approach

464. We say from the outset that we have had regard to Mr. Apter's record of police service.
465. Aside from the finding we have made in this case, Mr. Apter's police service was otherwise entirely positive – indeed, he received commendations for his service in 1998 and 2002.
466. Mr. Apter has never committed any misconduct of any kind before.
467. In determining sanction, we follow the structured approach set out in Fuglers LLP v Solicitors Regulatory Authority [2014] EWHC 179 (Admin) ("Fuglers"). The approach commended there involves the Panel assessing:
 - a. Mr. Apter's culpability;
 - b. The harm he has caused;
 - c. The aggravating features of the case; and
 - d. The mitigating features of the case.
468. The Panel has considered the purpose of imposing sanctions in this form of proceedings; those purposes are ([2.3] Outcomes Guidance):
 - a. To maintain public confidence in, and the reputation of, the police service;
 - b. To uphold high standards in policing and to deter misconduct; and
 - c. To protect the public.

As the Outcomes Guidance sets out, at [4.4], “*The most important purpose of imposing disciplinary sanctions is to maintain public confidence in, and the reputation of, the policing profession as a whole*”.

469. The Panel has reminded itself that it is for the Panel to decide what weight to give to the individual factors enumerated in the Outcomes Guidance when conducting the Fuglers analysis. The presence of a single factor, if given a great deal of weight by the Panel, can sometimes make a decisive difference to the outcome of case. If the Panel finds that multiple factors are present both mitigating and aggravating the matter (or increasing/reducing seriousness), then the Panel must decide where the overall balance in the case lies between all those various factors.
470. The Panel has directed itself, along the lines submitted by Ms. Williamson, that it must not consider that Mr. Apter’s conduct is more serious simply because the same action on his part involved him breaching multiple Standards of Professional Behaviour – we accept that it is the *conduct* proven that matters, not the number of Standards of Professional Behaviour that he has breached.
471. In assessing harm, the Panel has reminded itself – again - that it must not speculate. The Panel must reach its assessment of harm based only on reasonable inferences that can be drawn from the evidence it has heard in the hearing room or read in the hearing bundles.
472. The Panel has directed itself that it must test the appropriateness of the least onerous sanction first before going onto consider a more onerous sanction. *Per* the Outcomes Guidance at [2.7]-[2.8],

“Misconduct proceedings are not designed to punish police officers.

As stated by Lord Justice Laws in Raschid v General Medical Council:

‘The panel then is centrally concerned with the reputation or standing of the profession rather than the punishment of the doctor.’

However, the outcome imposed can have a punitive effect, which should therefore be no more than is necessary to satisfy the purpose of the proceedings. Consider less severe outcomes before more severe outcomes. Always choose the least severe outcome that deals adequately with the issues identified, while protecting the public interest. If an outcome is necessary to satisfy the purpose of the proceedings, impose it even where this would lead to difficulties for the individual officer”

473. The Panel must consider Mr. Apter’s position as if he was still a serving officer: [3.33] Outcomes Guidance. Given the Panel has found that gross misconduct is proved and Mr. Apter could not have been reduced in rank, the least onerous sanction the Panel could impose - if Mr. Apter was a serving officer - would be a ‘final written warning’: Regulation 42(3)(b). The Panel should fully consider that sanction before moving on to consider the next (and most onerous) sanction which is ‘dismissal without notice’.
474. If the Panel thought a ‘final written warning’ was appropriate for a serving officer, then its overall conclusion for a former officer like Mr. Apter would be that it ‘would not’ have dismissed Mr. Apter – that is because the Panel thought a sanction short of ‘dismissal without notice’ was appropriate for a serving officer.
475. If, however, the Panel thought that a ‘final written warning’ was not appropriate for a serving officer because it would not sufficiently onerous, then - if Mr. Apter was serving officer – the Panel’s decision would be to impose the sanction of ‘dismissal without notice’.

476. If the Panel arrived at the latter outcome for a serving officer, then - in a ‘former officer’ case like Mr. Apter’s - the Panel’s overall conclusion would be that it ‘would’ have dismissed him without notice.
477. The Panel’s duty is to faithfully apply the Outcomes Guidance as if Mr. Apter were still a serving officer; the Panel is to have no regard to the practical effect of the overall sanction on Mr. Apter’s given he is no longer a serving officer.
478. The Panel has directed itself that the more serious the Panel takes Mr. Apter’s misconduct to be, the less weight it will be able to place on any personal mitigation that he advances. Any personal mitigation that is advanced by Mr. Apter must, however, be carefully considered by the Panel. In doing that, the Panel must never lose sight of the purposes of imposing sanction (paragraph 468, above).
479. In assessing the severity of Mr. Apter’s misconduct, the Panel is concerned with his actions and the effect that those actions have had (or the risks that it involved), not with placing or comparing the findings the Panel has made in this case with other major recent events in British policing.

B. Discussion

1. Culpability

480. We start with our analysis of Mr. Apter’s culpability.
481. We do not believe that Mr. Apter’s actions were planned; rather, we believe what he said about Ms. Harper was said in circumstances where he felt ‘at ease’.
482. In our assessment, Mr. Apter believed when he said those words about the ‘hotel room’, that those assembled would either:
 - a. Find what he said funny;
 - b. Regard it as an acceptable topic of conversation in the circumstances; or
 - c. At least not find what he said so objectionable that they would challenge him there and then.
483. Mr. Apter’s action was deliberate and had the intention to:
 - a. Shock and/or amuse others; or
 - b. Broach a topic with them that had nothing to do with the professional task at hand.

On either view, Mr. Apter’s action was not targeted or planned.
484. We are satisfied Mr. Apter did not intend to harm the reputation of the police service or bring it into disrepute when he said those words.
485. We are satisfied, however, that Mr. Apter could reasonably have foreseen that his words would harm the reputation of the police service and bring it into disrepute.
486. Given his position, his words could easily have reached a wider audience than the ‘huddle’ – Mr. Apter should have known that.
487. Mr. Apter was, in our assessment, undoubtedly holding a “*position of trust or responsibility*” at the time he made that remark: [4.12] Outcome Guidance. That paragraph of the Outcomes Guidance also explains that ‘culpability’ can be increased where “*...an officer’s level of responsibility [is] affected by specific circumstantial factors, such as... their particular role and their relationship with any persons affected by the misconduct*”.
488. Here, Mr. Apter was performing a function in preparation for an event connected to his role as Chair of the Federation. Whilst the remark was not made in the

- middle of an event that was intrinsically connected with his role, it could hardly be described as a remark made in his personal life, entirely unconnected with his role as (then) Chair. Mr. Apter's role and level of responsibility is engaged in our assessment of his culpability.
489. We now turn to analysing the question of "...[Mr. Apter's] relationship with any person affected by the misconduct".
 490. One of the people who, much to our regret, may be affected by our finding is Ms. Harper. We accept Mr. Apter did not intend or foresee that his remark would come to her attention. Nevertheless, since it has come to her attention, we must assess this part of the Outcomes Guidance.
 491. Mr. Apter's relationship with Ms. Harper at the time of the misconduct was that he was a figure of support. We accepted Mr. Apter's evidence about the efforts he made to put in place proper support for Ms. Harper at the conference.
 492. It is to be recalled that Mr. Apter chaired the organisation that was/is responsible for representing and providing pastoral and practical support from Constables to Chief Inspectors up and down the country. Back in 2020, the Federation was taking the step, on behalf of its members, to do what it could to honour the life and service of PC Harper. The Federation had taken the (frankly moving) step to issue a posthumous award to PC Harper; that award was to be collected, in PC Harper's stead, by his wife, Ms. Harper.
 493. Mr. Apter's relationship with Ms. Harper was, accordingly, one involving her placing trust and confidence in Mr. Apter that the event would be handled sensitively and with care and empathy.
 494. However professionally Mr. Apter may have conducted himself at the ceremony, unbeknownst to Ms. Harper, her expectations of him were violated by his utterance about her the previous day.
 495. Mr. Apter's role at the time of the misconduct, and his relationship to Ms. Harper, in our judgement, make him more culpable.
 496. Turning to the rest of the Outcomes Guidance, having regard to the various examples discussed in the 'Violence, intimidation or sexual impropriety' section, we did not consider that that part of the guidance applied to this case.
 497. Although we found that the 'Abuse of position of trust or authority' part of it applied, there was nothing specific from [4.44]-[4.48] in it that required us to go beyond what we said above.
 498. Whilst we considered that Ms. Harper was 'vulnerable' (and we will say more on this below), we believed that the part of the Outcomes Guidance entitled 'Misconduct involving a vulnerable person' was largely addressed to different factual situations to this one, i.e. situations where misconduct took place in the vulnerable person's presence.
 499. We considered the section under the heading 'Discrimination'. We considered that Mr. Apter's words involved discrimination on grounds of "sex".
 500. In our view, Mr. Apter's words 'objectified' Ms. Harper. On what he said, her interests, passions, and character traits – which include the dignity she has shown in the face of tremendous adversity - were as nothing; Mr. Apter's remark implied an attitude that said that an important part of her value to him consisted in his view of her physical attractiveness. Such an attitude discriminates against women because it implies that an important part of the value of a woman to someone is their physical attractiveness rather than their character or actions.
 501. We believe that Mr. Apter's attitude, expressed through his words, involved unconscious discrimination on his part – we do not think he deliberately sought, by

- making that remark, to damage the cause of equality between men and women but we are satisfied that – writ large – inequality of treatment between men and women results from the expression of such attitudes.
502. We considered pages 12 and 13 of the IPCC Guidelines for Handling Allegations of Discrimination referred to by the advocates and by the Outcomes Guidance. In approaching the question of Mr. Apter’s ‘intent’ at page 12, Ms. Williamson invited us to conclude – from various passages in character references and various passages of the evidence – that Mr. Apter does not generally hold “*sexist attitudes*” and that his remark must therefore be seen as a singular incident.
 503. Ms. White submitted that, even though we dismissed **Charges One and Three**, the intermediate findings that were made ‘along the way’ should not be entirely disregarded if – otherwise – the Panel would be left artificially surveying only a portion of the factual picture before deciding weight it would otherwise put on character references or other parts of the evidence for Ms. Williamson to make good her point.
 504. The difficulty that we had with Ms. Williamson’s submission was not that the various passages from the character references were difficult to reconcile with the full factual picture set in our Written Reasons but, rather, that they were difficult to reconcile with even our findings on **Charge Two**. We can think of no reason why Mr. Apter said what he said if he did not, at least on that occasion, feel the remark was either:
 - a. A legitimate subject of humour; or
 - b. An appropriate topic of conversation in the circumstances; andHe felt comfortable enough to say it out loud. Mr. Apter may have shown greater levels of restraint on other occasions, but he must have held the general view that this was something he could either make light of or discuss in that setting.
 505. It was agreed that the ‘Violence against women and girls’ section did not apply to this case.

2. Harm

506. The harm that was principally caused in this case was distress to Ms. Harper and reputational harm to the police service. The harm caused to Ms. Harper is set out at paragraph 111, above.
507. Again, we accept that it was not Mr. Apter’s intention to harm Ms. Harper. Of course, when anyone commits misconduct then they run the risk that that misconduct will be reported and – if heard at a final hearing - heard in a public setting. An inevitable consequence of Mr. Apter’s misconduct being discussed at this final hearing is that Mr. Harper may hear about the remark further.
508. Ms. Harper was a vulnerable person at the time – she had been through a highly traumatic and challenging period in her life.
509. Ms. Harper was entitled to look upon Mr. Apter as someone who had her best interests at heart. Mr. Apter was a key figure of a policing community who – no doubt - moved by powerful feelings of empathy and respect, wished to celebrate PC Harper’s life and support her.
510. Mr. Apter’s comment was not only discriminatory but it was also just such an unpleasant thing to say about someone working through immense feelings of grief and loss.
511. We find that these matters increase the level of harm in this case.

512. As to the effect of the remark on the public's confidence in policing, the Outcomes Guidance states, at [4.66],
"Where an officer commits an act that would harm public confidence if the circumstances were known to the public, take this into account. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims".
513. We believe that most reasonable members of the public would be appalled by what Mr. Apter said.
514. Writ large, if others felt empowered to utter remarks like Mr. Apter's out loud, then it would have a deleterious effect on the professionalism of the police service – it would send a clear message to women that would leave them feeling undervalued and disrespected either as fellow officers or as members of the public.
515. The fact that Mr. Apter was a leader in policing at the time meant that he should have been aware, more than most, of the importance of his setting a good example. An organisation's or public service's culture can be hugely affected by the example set by its leaders – Mr. Apter set a very poor example on 27.01.20.
516. We find that very serious harm has been done to the public's confidence in the reputation of the police service by Mr. Apter's remark.

3. Aggravating Factors

517. We find that Mr. Apter's remark did involve an abuse of his position; that was in two respects:
- a. The fact that he made the remark, no doubt, in the belief that – because of his position – he would not be challenged even if people did not find it funny or think the topic appropriate; and
 - b. It was only by virtue of his position that he was entrusted, both by Ms. Harper and the policing community generally, to conduct the awards ceremony. It was the latter that Mr. Apter was preparing for when he said what he said.
518. We find that Ms. Harper was vulnerable.
519. We find this is a case involving unlawful discrimination.
520. We find that Mr. Apter had *"leadership responsibility, where there is an expectation of acting as a role model"*.

4. Mitigating Factors

521. We find that this was a *"single episode"* and that it was *"of brief duration"*.
522. We do note that this misconduct took place over four years ago. Mr. Apter has not done anything to elongate or prolong these proceedings.

5. Personal Mitigation

523. We said in our findings that Mr. Apter was someone who was in policing for all the right reasons (paragraph 353(e), above).

524. It was put forward as personal mitigation on Mr. Apter's behalf that his work had been commended and that, in fact, a proposal of his as to supporting officers who had been assaulted had been rolled out nationally.
525. It is plain to us that Mr. Apter's policing career was impressive both as an operational officer and as an officer attached to the Federation. We know that our decision will appear, to some, to be 'harsh'. Our role, however, is not to 'punish' Mr. Apter, it is – through our decision – to play our part in a system whose object is to uphold standards in policing and to maintain public confidence in the police service.
526. We have no doubt that these proceedings have taken an immense toll on Mr. Apter; the investigation and proceedings have taken a great deal of time, they have undoubtedly been stressful, and we are satisfied they have had a significant effect on both his health and reputation.

6. Conclusion

527. We carefully considered whether we would have imposed a final written warning on a serving officer in Mr. Apter's position.
528. Our difficulty with such a course was that we did not think that such a sanction would meet the seriousness of our findings.
529. A leader in policing made a remark, in a quasi-professional setting, that was simultaneously both deeply unkind and unfeeling about someone vulnerable; in the process, he also said something implying views of women that are reductive and unacceptable. It is not the case that there is 'one rule' for those in positions of power and influence and 'another rule' for those who are not – it is the case that those in positions of power and influence, by virtue of their position, can do far greater harm to the reputation and standing of an honourable profession by what they say.
530. We consider that a final written warning would not convey, with sufficient clarity to other officers and to the public, the seriousness of our findings and our assessment of the scale of the damage that has been done to the public confidence in, and the reputation of, the police service.
531. Police officers exercise power and authority on behalf of all of us in our society and they are expected to do the right thing even if they are in the most difficult and trying of circumstances.
532. Every police officer, of any rank or position, must inspire confidence in the public that they will enforce our laws fairly and do so with understanding and compassion.
533. Everyone in our society should have confidence that a police officer will treat them fairly and not have cause to be concerned that, for example, because they might be a woman and the officer might be a man, that that officer may treat them differently on account of that. Everyone in our society should have confidence that an officer, whatever their personal characteristics, will treat a member of the public – whatever their personal characteristics – fairly.
534. Further, everyone in our society should have confidence that a police officer will have empathy and compassion for the plight of the vulnerable and for those in our society who meet the police whilst they are going through the worst experience they may ever experience in their entire lives.

535. Mr. Apter's conduct, whilst it may only have been a single remark on 27.01.20, fell very far short of what the Standards of Professional Behaviour required.
536. Mr. Apter, who was a police leader at the time, set an example through the words that he used that is completely incompatible with the expectations that the public are entitled to hold of their police service.

XII. Overall Conclusion

537. For all of the above reasons, our finding is that the least sanction we would have imposed for a serving officer of Mr. Apter's role and position was 'dismissal without notice'.
538. On account of Mr. Apter's status as a former officer, our conclusion is that we impose the sanction **THAT WE WOULD HAVE DISMISSED MR. APTER WITHOUT NOTICE.**
539. The Panel repeats its gratitude to both advocates, Ms. White and Ms. Williamson, for the considerable care, skill, and professionalism they have brought to this final hearing.
540. The Panel also expresses its gratitude to the proceedings co-ordinator, Ms. Stephens, for making all the necessary preparations to make this final hearing run smoothly and for the practical support she gave to the parties, and the Panel, at this final hearing.

14.10.24

Detective Superintendent Sarah McConnell, Policing Member
Giles Pengelly, Legally Qualified Chair
Ann Stow, Independent Member

ANNEXE ONE – REGULATION 30 NOTICE

"Reg. 30 Notice: Former PC John Apter

Being a police officer with Hampshire and Isle of Wight Constabulary, on diverse dates between 2019 and 2021 and whilst serving as the National Chairman for the Police Federation for England & Wales ("the Federation") you breached the Standards of Professional Behaviour set out Schedule 2 to the Police (Conduct) Regulations 2020 by behaving in a sexually inappropriate manner towards one woman and making inappropriate comments about two other women.

...

(2) Sexual Touching of Female A

- 4. On the night of 8 December 2021, the night before... [the] National Police Bravery Awards ceremony hosted by the Federation at the London Hilton Hotel on 9 December 2021, you attended a 'night out' with a group of constables who had travelled to London for the awards ceremony.*
- 5. The evening began with a drinks reception hosted by the Federation media team at the Archer Street Bar in Soho before you and a group of others, including Female A and officers from the Leicestershire Police Federation, moved to The Ship public house. You were drinking at both locations.*

6. *Female A was an off-duty Leicestershire constable who was still in her probationary period at the time. You were the Federation National Chairman and over 20 years senior to Female A in age and years of service.*
7. *As you were walking to The Ship, you asked Female A if she would dance with you at the awards ceremony. At the Ship you bought a bottle of Prosecco for Female A, compared to single drinks for others, which gave the impression you were trying to get her drunk. You encouraged Female A to finish her drink and topped up her glass more than once.*
8. *You asked to join the Leicestershire group for dinner, which they agreed, and the group, including you and Female A, moved to 40 Dean Street restaurant for a reservation at approximately 9pm.*
9. *At the restaurant, as the group were finding their seats at the table, you darted through and moved close to Female A's left hand side, which meant she had to move to her right to make space for you at the end of the table. There were several free spaces at the other end of the table which you could have taken instead.*
10. *As Female A got up to move to her right, you placed your right hand on Female A's right buttock with your full open palm. You maintained your hand in this position for a few seconds. Whilst your hand was on Female A's bottom, you moved your head towards Female A's ear and whispered, "Is that okay?"*
11. *Female A did not consent to having her bottom touched in the sexual manner described in paragraph 10 above, and you were given no indication that she had so consented.*

...

(4) Comment towards (pregnant) Charlotte Styles, "Maybe you'll get a bum now"

15. *In 2018 and 2019 Charlotte Styles was an Internal Communications Manager at the Federation, responsible for communications between the National Board and the Federation membership, who had regular dealings with you.*
16. *In or around early 2019 Ms Styles informed you that she was pregnant and due to take maternity leave. You said something along the lines of "maybe you'll get a bum now" or "you've actually got an arse now you're pregnant".*

(5) Comment about Lissie Harper, "I'd like to comfort her in my hotel room"

17. *On 27 and 28 January 2020 you attended a Roads Policing Conference hosted by the Federation at Chesford Grange in Kenilworth in your capacity as the Federation National Chairman. The event consisted of seminars and an awards ceremony. The awards ceremony was attended by Lissie Harper, the widow of PC Andrew Harper who was killed in the line of duty, who collected an award on behalf of her late husband.*
18. *On the evening of 27 January, prior to the awards ceremony, you were part of a discussion with Martin Buhagiar (Senior Communications Manager for the Federation), Jamie Simpson (Senior Digital Communications Officer for the Federation), Steve Bax (Communications Officer for the Federation), Claire Blekkenhorst, and Jill Vale (your personal assistant) about the arrangements for Ms Harper's attendance including whether she might need any support.*
19. *In response to someone saying that Ms Harper might need to be looked after at the event, you said something along the lines of "I wouldn't mind looking after her" or "I'd like to comfort her in my hotel room".*
20. *After making that comment you gave an address at the event and presented Ms Harper with PC Harper's posthumous award.*

Breaches of the Standards of Professional Behaviour

21. *The matters aforesaid amount, individually and/or collectively, to Gross Misconduct and to breaches of the Standards of Professional Behaviour of:*
- a. ***Authority, Respect and Courtesy*** in that it was disrespectful, discourteous, and an abuse of your position as the Federation National Chairman to:
 - ...
 - ii. *Touch Female A in the sexual manner outlined in paragraph 10;*
 - iii. *Make the comments to and/or about... Ms Styles and/or Ms Harper, as outlined above, in a manner which was sexually suggestive, demeaning and/or derogatory towards women.*
 - b. ***Equality & Diversity*** in that by sexually touching Female A... and/or by making the comments about Ms Styles and/or Ms Harper, you failed to treat women fairly, impartially and with respect.
 - c. ***Discreditable Conduct*** in that sexually inappropriate behaviour in the form of i) sexual touching and ii) sexually suggestive, demeaning and/or derogatory comments towards a junior colleague and a member of the public by a police officer holding senior office within the Federation is capable of undermining public confidence in, and bringing discredit on, the Police Service”